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1 SENATE RULES COMMITTEE

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6 HEARING

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10 STATE CAPITOL

11 ROOM 113

12 SACRAMENTO, CALIFORNIA

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15 WEDNESDAY, JANUARY 7, 2004

16 1:44 P.M.

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25 Reported by:

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27 Evelyn J. Mizak
28 Shorthand Reporter

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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

MICHAEL BUSTAMANTE, Member
Agricultural Labor Relations Board

DANIEL ZINGALE, Member
Agricultural Labor Relations Board

STEVEN R. MAVIGLIO, Member
California Unemployment Insurance Appeals Board

ANN M. RICHARDSON, Member
California Unemployment Insurance Appeals Board

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Governor's appointees
appearing today, Ag. Labor Relations Board, Michael Bustamante.

Michael, come forward. Go ahead.

MR. BUSTAMANTE: Mr. Chairman, Members of the
Rules Committee, thank you for the opportunity to be before you
today and seek your confirmation of my appointment.

My name is Michael Bustamante. I submitted to
you a longer statement.

Before I begin, I just wanted to introduce my
wife who is here, Claudia Kiddy. It also happens to be her
birthday today.

CHAIRMAN BURTON: Added pressure on the
Committee.

[Laughter.]

MR. BUSTAMANTE: Added pressure on me.

Mr. Chairman and Members of the Committee, I
believe in the landmark law that was passed in 1975, the
Agricultural Labor Relations Act, and the bills that were passed
last year, the Mandatory Mediation Conciliatory Acts.

I assure you that I will vigorously enforce those
laws in a fair and impartial manner.

In the statement that I submitted to you, I
mentioned that there are two areas that I wanted to dedicate my
tenure.

One was to, to the best of my ability, improve
the communication between the ALRB, employers, labor groups, and

1 employees.

2 The second area is to see if there is a way that
3 we can streamline some of the elements of the process without
4 impacting the due process provisions afforded the parties.

5 Thank you for opportunity to appear before you
6 today. I'd be more than happy to answer any questions you might
7 have.

8 CHAIRMAN BURTON: How many cases, do you know,
9 are there before the Board involving the binding mediation? Do
10 you have any idea how many?

11 MR. BUSTAMANTE: There's actually two, two
12 cases. There was one case in which the Board -- the mediation
13 had completed and passed. That is a matter that's before the
14 Third District Court of Appeal right now.

15 There's a second matter in Picksweet in which the
16 Board ordered mediation. The mediator, after meeting with the
17 parties once, resigned. So, the Board has asked those parties,
18 and the parties have now sought another mediator, and they're in
19 the process of mediation right now.

20 CHAIRMAN BURTON: Why did he resign; do you know?

21 MR. BUSTAMANTE: I don't. There was really no
22 explanation.

23 CHAIRMAN BURTON: What's the issue before the
24 court?

25 MR. BUSTAMANTE: Well, the constitutionality of
26 the law.

27 CHAIRMAN BURTON: Okay.

28 Do you happen to know what the extent of their

1 case backlog is? Not on this issue, just generally?

2 MR. BUSTAMANTE: Sure.

3 As you know there's two sides to the Labor
4 Relations Board. On the Board side, there aren't any backlogs.

5 On the General Counsel's side, it's my
6 understanding that there's somewhere in excess of a little over
7 200 cases that are backlogged. Now, those are really resource
8 driven.

9 I've got to say that the General Counsel has made
10 a very strong effort to try to, to the extent possible, reduce
11 that backlog. But, you know, over the course of years, it's my
12 understanding that the resources within the ALRB have continued
13 to go down as opposed to going up to meet those resource needs.

14 So, I look forward to working with the
15 Legislature, and the administration, and the General Counsel to
16 try to increase those resources in order to alleviate that
17 backlog.

18 CHAIRMAN BURTON: Would you know how many of
19 those are back pay for individual workers?

20 MR. BUSTAMANTE: That I don't know. I don't know
21 the specifics of those.

22 CHAIRMAN BURTON: Senator Johnson.

23 SENATOR JOHNSON: No questions.

24 CHAIRMAN BURTON: Senator Romero.

25 SENATOR ROMERO: Let me just ask, how do you
26 think the ALRB has influenced the way in which farm management
27 and farm labor have dealt with each other? What's been the
28 greatest influence overall?

1 MR. BUSTAMANTE: Well, I think when the law was
2 passed in 1975, what it did is, I think it tamped down a lot of
3 the pressures that were out there. And I think over time what's
4 happened is that it's created some measure of surety, if you
5 will, between the employers -- I mean between the growers, the
6 workers, and the labor organizations.

7 I think with the MMC that was passed, I think
8 that was another big step that has been made, and I think there
9 are other steps that can be made as well.

10 I mean, I think over time, dealing with the
11 backlog of cases, trying to find a way to bring better
12 consistency, if you will, among the employers, the employees,
13 and the labor groups is something that I look forward to doing.

14 SENATOR ROMERO: Thank you.

15 CHAIRMAN BURTON: Senator Knight.

16 SENATOR KNIGHT: No questions.

17 CHAIRMAN BURTON: Senator Karnette.

18 SENATOR KARNETTE: No questions.

19 CHAIRMAN BURTON: Witnesses in support?

20 Witnesses in opposition?

21 Move the nomination. Call the roll.

22 SECRETARY WEBB: Senator Karnette.

23 SENATOR KARNETTE: Aye.

24 SECRETARY WEBB: Karnette Aye. Senator Knight.

25 SENATOR KNIGHT: Aye.

26 SECRETARY WEBB: Knight Aye. Senator Romero.

27 SENATOR ROMERO: Aye.

28 SECRETARY WEBB: Romero Aye. Senator Johnson.

1 SENATOR JOHNSON: Aye.

2 SECRETARY WEBB: Johnson Aye. Senator Burton.

3 CHAIRMAN BURTON: Aye.

4 SECRETARY WEBB: Burton Aye. Five to zero.

5 CHAIRMAN BURTON: Congratulations, Michael.

6 MR. BUSTAMANTE: Thank you.

7 CHAIRMAN BURTON: We will send you a video tape
8 of Bill Lloyd embracing the nominee.

9 [Laughter.]

10 CHAIRMAN BURTON: And we will computerize your
11 face into the other one so you'll know how it felt for the last
12 five years. The same will go for the other nominees.

13 [Laughter.]

14 CHAIRMAN BURTON: Daniel Zingale, Ag. Labor
15 Relations Board.

16 MR. ZINGALE: Thank you, Mr. Chairman and
17 Senators. I'm Daniel Zingale.

18 I greatly appreciate the opportunity to appear
19 before you in hopes of being confirmed to the ALRB.

20 Some of you may know that I appeared before this
21 Committee four years ago to become the founding Director of the
22 Department of Managed Health Care. I hope I haven't done
23 anything since then to make you regret your action then.

24 I also hope I learned a couple of things that I
25 think might be applicable to the ALRB. We also had a big
26 backlog going into HMO oversight at that time which we were able
27 to eliminate over a several year period. And we also had a
28 major challenge of outreach, people understanding what their

1 rights and responsibilities were under the HMO Patient's Bill of
2 Rights, which you all enacted.

3 And I think the challenge is a similar one. In
4 the case of the ALRB, the rights are in place, but to a large
5 extent the awareness is not there. I think there are some
6 creative ways, even in times of scarce resources, that we may be
7 able to get the word out.

8 So, I will dedicate myself to those things, and
9 also I'll pay particular attention to health benefits those who
10 work on the farms.

11 Again, I appreciate the opportunity to be
12 here.

13 CHAIRMAN BURTON: Do you have anything to add to
14 Michael's answers to questions that were put to him? I guess
15 about the backlog, it's what it is.

16 MR. ZINGALE: Only on your first question,
17 Senator, about the Mandatory Mediation. Michael mentioned the
18 two cases were enforcing the law.

19 There's a third challenge which you should be
20 aware of on the constitutionality. So, there's another court
21 case where the constitutionality is being challenged and the
22 Board will be defending the action.

23 CHAIRMAN BURTON: Do you know why that mediator
24 quit in the Picksweet?

25 MR. ZINGALE: Apparently personal reasons, maybe
26 personal health, but we were told personal reasons.

27 CHAIRMAN BURTON: Senator Johnson.

28 SENATOR JOHNSON: No questions.

1 CHAIRMAN BURTON: Senator Romero.

2 SENATOR ROMERO: Especially with the language
3 diversity, the cultural diversity of much of our farm labor,
4 what barriers do you see that perhaps prevent farm labor from
5 accessing the services provided or knowledge about the ALRB, and
6 how they can carry forth their case? What would you recommend
7 to address those shortcomings?

8 MR. ZINGALE: I think that is probably the
9 central challenge.

10 There is a similar challenge on the health care
11 side that I was talking about, but the magnitude is much greater
12 in this case because the vast majority of the people who work on
13 our farms are Spanish speaking. And there's also, I believe, a
14 higher than 50 percent literacy problem among workers.

15 So, I was pleased to see the staff and the Board
16 at the ALRB have some creative ways of reaching out to people.
17 There's what you know is called a Novelo, which reaches people
18 with illustrations in a way that I thought was very clever.
19 There's a new version of that in the works right now.

20 The staff, and all the way up through the staff
21 leadership of the field offices are all bilingual, virtually all
22 Spanish speaking people, which is a rarity in state government
23 in my experience. So, I'm glad that, again, the organization
24 clearly understands that.

25 SENATOR ROMERO: Thank you.

26 CHAIRMAN BURTON: Senator Knight.

27 SENATOR KNIGHT: No questions.

28 CHAIRMAN BURTON: Senator Karnette.

1 SENATOR KARNETTE: No questions.

2 CHAIRMAN BURTON: Have you got anybody here to
3 introduce?

4 MR. ZINGALE: No. My kids are in school, and my
5 mom's at the after-Christmas sales.

6 [Laughter.]

7 MR. ZINGALE: They gave me permission to say they
8 support my nomination.

9 CHAIRMAN BURTON: Witnesses in support?
10 Witnesses in opposition?

11 Call the roll.

12 SECRETARY WEBB: Senator Karnette.

13 SENATOR KARNETTE: Aye.

14 SECRETARY WEBB: Karnette Aye. Senator Knight.

15 SENATOR KNIGHT: Aye.

16 SECRETARY WEBB: Knight Aye. Senator Romero.

17 SENATOR ROMERO: Aye.

18 SECRETARY WEBB: Romero Aye. Senator Johnson.

19 SENATOR JOHNSON: Aye.

20 SECRETARY WEBB: Johnson Aye. Senator Burton.

21 CHAIRMAN BURTON: Aye.

22 SECRETARY WEBB: Burton Aye. Five to zero.

23 CHAIRMAN BURTON: Congratulations, Daniel.

24 MR. ZINGALE: Thank you very much, Senator.

25 CHAIRMAN BURTON: Steven Maviglio, California
26 Unemployment Insurance Appeals Board.

27 MR. MAVIGLIO: Thank you Senator Burton. Thank
28 you other Senators, and thank you for your time used to this

1 hearing, and to the staff for providing counsel coming to the
2 hearing.

3 This is not the ALRB; it's the Unemployment
4 Insurance Board which, as you know, handles the appeals to
5 unemployment insurance claims. It was mentioned by the Governor
6 last night as one of the areas that he wants to look at.

7 I can tell you, I've been very impressed with a
8 month on the job by the workload and the amount of work that
9 people are doing there.

10 There is a small backlog. We're working very
11 hard to overcome that. We're looking at something like 21,000
12 appeals per month, and that's up from about 14,000 just a couple
13 of years ago. So, the economy is definitely impacting this
14 agency.

15 I've submitted a statement, and I'd be glad to
16 answer any questions you might have.

17 CHAIRMAN BURTON: EDD, or whoever it is, is
18 lagging behind the federal standard of being able to deal with
19 cases, hopefully within 30 days, and our state's about 25 or 26,
20 and the national average is about 60 or so.

21 Is there anything being done to try to deal with
22 that problem?

23 As I understand it, because of the backlog we
24 could conceivably be losing some federal administrative funding
25 that they provide for this.

26 MR. MAVIGLIO: Right. We've increased the
27 workloads for a lot of the judges, and they're also doing
28 something that's called a mass calendar, where they go to a

1 location such as Fresno and do a number of cases in a day to try
2 to increase [sic] that backlog.

3 But you're right, the federal funds are largely
4 contingent on our compliance, so we're doing our best to get
5 there.

6 CHAIRMAN BURTON: Why wouldn't they always do a
7 whole bunch on the same day?

8 In other words, you said they're going to
9 outlying areas to have the hearings?

10 MR. MAVIGLIO: Yeah, typically they come to one
11 of our regional offices and you have a more formal setting where
12 it's a mini-trial. And they do that, but it just consolidates
13 the time, and the appointments, and everything; puts them on one
14 calendar. Sort of a consent calendar.

15 CHAIRMAN BURTON: Do you know how many field
16 offices have been closed, roughly?

17 MR. MAVIGLIO: I don't know how many are closed.
18 I know we have 12 field offices and 52 out stations is what we
19 have.

20 I'm not aware of any being closed.

21 CHAIRMAN BURTON: Senator Johnson.

22 SENATOR JOHNSON: No questions.

23 CHAIRMAN BURTON: Senator Romero.

24 SENATOR ROMERO: Let me ask, we know about the
25 grocery strike and the lockout in Southern California.
26 Typically, these labor disputes last for quite sometime.

27 I attended, participated, in a Labor Committee
28 hearing during the interim in which we took a look at the

1 possibility of us having as many as 20,000 appeals by locked out
2 grocery clerks; 20,000 appeals.

3 How do you intend to handle this type of a major
4 increase in the workloads, and to make sure that those grocery
5 clerks who have been locked out get a fair and expedited
6 hearing?

7 MR. MAVIGLIO: All right. The number we're
8 anticipating, we have actually 40,000 cases from that
9 particular, and the MTA another 7500.

10 Obviously, that's going to have a huge impact,
11 particularly in that regional office. We're doing our best with
12 some of the mass calendars that I suggested. Something like
13 that probably would be in order. Many of the cases will be very
14 similar because of their same dispute. So, I think we'll be
15 able to handle those the best we can with the personnel we have,
16 added workloads and added hours.

17 SENATOR ROMERO: Has there already been
18 discussion amongst the Board members as to how to begin planning
19 for this?

20 MR. MAVIGLIO: Yes. I know our Board Chair is
21 here, Cynthia Thornton, as well as the Chief Counsel and the
22 Data Director, and they've been working on this in
23 anticipation.

24 SENATOR ROMERO: Thank you.

25 Then I have a comment basically not for the
26 candidate but for the Members.

27 Again, once again, it's a new year. I intend to
28 cast affirmative votes on the next two nominees, but I am going

1 to point out once again, the Unemployment Insurance Board, when
2 we take a look at who is unemployed in California, the ethnic
3 numbers as well too.

4 I'm going to again put a call out to the new
5 administration, although these are forwarded by the old
6 administration and I intend to support it, but as we go forward
7 once again to urge our new Governor to take a look at diversity
8 in the appointments that, hopefully, will come forward.

9 There's not a single Latino on this Board,
10 there's not a single African American.

11 My hope would be that as we go forward, and as
12 vacancies occur, we can begin to see reflected on these boards
13 the diversity of California.

14 CHAIRMAN BURTON: Senator Knight.

15 SENATOR KNIGHT: No questions.

16 CHAIRMAN BURTON: Senator Karnette.

17 SENATOR KARNETTE: No questions.

18 CHAIRMAN BURTON: Witnesses in support?

19 Witnesses in opposition?

20 Move the nomination.

21 SECRETARY WEBB: Senator Karnette.

22 SENATOR KARNETTE: Aye.

23 SECRETARY WEBB: Karnette Aye. Senator Knight.

24 Senator Romero.

25 SENATOR ROMERO: Aye.

26 SECRETARY WEBB: Romero Aye. Senator Johnson.

27 SENATOR JOHNSON: Aye.

28 SECRETARY WEBB: Johnson Aye. Senator Burton.

1 CHAIRMAN BURTON: Aye.

2 SECRETARY WEBB: Burton Aye. Four to zero.

3 CHAIRMAN BURTON: Congratulations.

4 MR. MAVIGLIO: Thank you.

5 CHAIRMAN BURTON: Ann Richardson.

6 MS. RICHARDSON: Good afternoon. My name is Ann
7 Richardson.

8 I want to thank this Committee for considering me
9 for an appointment on the California Unemployment Insurance
10 Appeals Board.

11 I'm very excited about continuing in public
12 service, after having served in the Davis administration for
13 five years as a Legislative Deputy.

14 I look forward to handling the UI claims in an
15 effective and efficient fashion and in disposing of the backlog
16 that we currently have and handling the mass claims.

17 CHAIRMAN BURTON: What would your suggestion be
18 to try to dispose of the backlog?

19 MS. RICHARDSON: I think one of the things that
20 we are doing right now, which is very effective, is assigning
21 more cases to each ALJ.

22 When you have mass litigation, which we very
23 often have in the civil system, you take very similar cases and
24 you can assign them to a judge for all purposes.

25 And I think that in the case of the lockout,
26 which Senator Romero brought up, we could take some of those
27 strike cases and apply them to one ALJ for all purposes where
28 the facts are similar, or the rate of pay is similar, or the

1 cases have, you know, some sort of continuous thread through
2 them. And I think that would be an effective way to handle it.

3 CHAIRMAN BURTON: Senator Johnson.

4 SENATOR JOHNSON: No questions.

5 CHAIRMAN BURTON: Senator Romero.

6 SENATOR ROMERO: No questions.

7 CHAIRMAN BURTON: Senator Knight.

8 SENATOR KNIGHT: No.

9 CHAIRMAN BURTON: Senator Karnette.

10 SENATOR KARNETTE: No.

11 CHAIRMAN BURTON: Do you have family here?

12 MS. RICHARDSON: Yes, I do.

13 I have my sister, Stephanie Richardson; and my
14 son David Ruff, who's a first year lawyer at McDonough Holland
15 here in town; my husband, Dr. Ronald Ruff, who's a professor at
16 UCSF and Stanford.

17 CHAIRMAN BURTON: Who's the lady next to your
18 husband, grinning like a Cheshire cat?

19 [Laughter.]

20 MS. RICHARDSON: That's my sistah, Cathy
21 Guardello, and my other sistah, Jan Owen.

22 CHAIRMAN BURTON: Witnesses in support?
23 Witnesses in opposition?

24 Call the roll.

25 SECRETARY WEBB: Senator Karnette.

26 SENATOR KARNETTE: Aye.

27 SECRETARY WEBB: Karnette Aye. Senator Knight.

28 SENATOR KNIGHT: Aye.

1 SECRETARY WEBB: Knight Aye. Senator Romero.

2 SENATOR ROMERO: Aye.

3 SECRETARY WEBB: Romero Aye. Senator Johnson.

4 SENATOR JOHNSON: Aye.

5 SECRETARY WEBB: Johnson Aye. Senator Burton.

6 CHAIRMAN BURTON: Aye.

7 SECRETARY WEBB: Burton Aye. Five to zero.

8 CHAIRMAN BURTON: Congratulations.

9 MS. RICHARDSON: Thank you.

10 [Thereupon this portion of the
11 Senate Rules Committee hearing
12 was terminated at approximately
13 2:02 P.M.]

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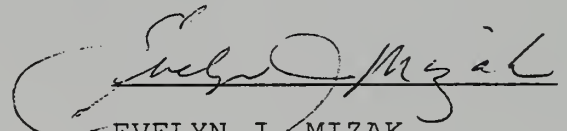
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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 8th day of January, 2004.


EVELYN J. MIZAK
Shorthand Reporter

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SENATOR GLORIA ROMERO

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DAVID OROSCO, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

FRANK (FRED) T. AGUIAR, Secretary
State and Consumer Services Agency

TIMOTHY L. COYLE
California Building Industry Association

MARC APREA
Anschutz Entertainment Group
Hewlett Packard

CHUCK CENTER
California State Council of Laborers

1 AARON READ

2 California Association of Highway Patrol

3 California Department of Forestry Firefighters

4 California Dental Hygienists Association

5 California Funeral Directors Association

6 EDDIE BERNACCHI

7 California Legislative Conference of the Plumbing, Heating and

8 Piping Industry, and the National Electrical Contractors

9 Association

10 CHRISTY BOUMA

11 California Professional Firefighters

12 KAREN Y. ZAMARRIPA

13 California State University

14 ALAN EDELSTEIN

15 California Alarm Association and other clients

16 SUNNE W. McPEAK, Secretary

17 Business, Transportation and Housing Agency

18 JULIE SNYDER

19 Housing California

20 PETE PRICE

21 California League of Conservation Voters

22 Natural Resources Defense Council

23 ROB WIENER

24 California Coalition for Rural Housing

25 D.J. SMITH

26 Transportation California

27 San Bernardino Associated Governments

28 San Diego Association of Governments

Contra Costa County Transportation Authority

Contra Costa County

Riverside County Transportation Commission

RANDY PERRY

PORAC

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN JOHNSON: The first item is Mr. Aguiar.

MR. AGUIAR: Thank you, Mr. Chairman.

CHAIRMAN JOHNSON: Secretary, State Consumer Services Agency.

Do you have a presentation you'd like to make?

MR. AGUIAR: Yes, sir, and I will be brief.

Thank you, Mr. Chairman and Members, good afternoon.

Before I begin, I would like to take this opportunity to introduce someone who's very special to me, and I'm so glad that she was able to make it up here for this hearing this morning, that's my wife of 36 years, Patty, who's behind me. So, it's good to have her here. Also known as County Supervisor Aguiar.

Mr. Chairman and Members, I know your time is valuable so I'll make my comments brief, and afterwards I'll be available to answer any questions the Committee might have.

For those who don't know my background, I have over 25 years of public service experience. I served 14 years on the Chino City Council, 6 years as Mayor. I served 6 years here in the California State Assembly, and 5 years on the County of San Bernardino Board of Supervisors.

I'm honored to have been nominated by Governor Schwarzenegger to serve as Secretary for the State and Consumer Services Agency.

In addition to enjoying the support of the

1 Governor, and frankly my wife, I believe the Committee has
2 received letters of support from groups as diverse as SEIU, the
3 Professional Firefighters, the California Building Industry
4 Association, and the American Institute of Architects.

5 As Secretary of an agency with a varied set of
6 departments, I am very much aware of the great opportunity we
7 have to improve this state and change the way we conduct our
8 business. And I believe we can make this agency more effective,
9 efficient and accountable to its customers. I hope to reinforce
10 an ethic of open communication and transparent government,
11 whether it be in our procurement process, our consumer
12 protection efforts, or civil rights enforcement. I intend to
13 work with all sectors of the state to implement the best and
14 brightest ideas for change within my area of responsibility.

15 It's an exciting time, and I look forward to the
16 challenge, and I respectfully ask for your support.

17 Thank you, Mr. Chairman.

18 CHAIRMAN JOHNSON: Senator Romero.

19 SENATOR ROMERO: Thank you.

20 Just one question. With respect to the
21 development of the comprehensive inventory of state property,
22 you had indicated to me when I asked you about this that this is
23 more complex than what we think it is.

24 Can you explain to the Committee why that is so,
25 and what you would do to be able to truly, perhaps, consolidate
26 a listing when we ask what is the surplus property that the
27 state does have, or whatever property, you can give us a
28 definitive answer?

1 MR. AGUIAR: Thank you, Senator, for the
2 question.

3 The Department of General Services, as you know,
4 is the agency responsible for the inventory and keeping of the
5 documents and records relative to the assets the state owns,
6 whether it be personal assets, vehicles, computer equipment, et
7 cetera, or real assets, real estate assets as well.

8 But it seemed that initially, the Department of
9 General Services was a control agency. And I think what
10 happened over time is that it became such a control agency that
11 departments and agencies of the state sought exemptions from the
12 process of DGS to purchase goods and services for their
13 departments or agencies because the process at DGS had bogged
14 down tremendously. It was taking too long to get their goods or
15 services they needed. So, over time it became more
16 decentralized, and DGS became more of a service organization,
17 but at the point where they lost their customers, if you will,
18 to large degree. So, agencies and departments were out there
19 buying real estate, buying vehicles, and other goods and
20 services that DGS was unaware of.

21 So today, Senator, if you asked for a complete
22 listing of real estate that this state owns, the Department of
23 General Services couldn't give you that. So, we are working
24 with the administration to have all agencies and departments
25 report all assets owned by those agencies and departments so we
26 can get a better handle on exactly what we have. So, until we
27 know what we own, obviously it's going to be more difficult to
28 decide what to do with that.

1 And one of the questions that we're going to be
2 requiring departments and agencies to respond to is, what real
3 estate, for example, do you have in your inventory; is it
4 utilized; is it under-utilized? If you don't have a plan to
5 utilize it within 24 months, it probably would be considered
6 surplus. And so, those of the kinds of things we need to do and
7 look at.

8 So, we plan on putting together a comprehensive
9 list, if you will, of assets owned by the state so we can decide
10 how we want to dispose of this, if we do want to dispose of it.

11 SENATOR ROMERO: That would make sense. I would
12 support you in that.

13 We should be able to ask a question and get a
14 listing. At a Budget joint hearing between Senator Sher and
15 myself on Budget and Corrections, we learned that a department
16 had a thousand extra people. I'm just wondering if there's
17 maybe a few more prisons floating around California that I'm not
18 aware of.

19 So, I look forward to you working on that.

20 MR. AGUIAR: Thank you.

21 CHAIRMAN JOHNSON: Following up on that, what's
22 the timeframe in which we can expect that we'll have a
23 definitive answer to what strikes me as a pretty fundamental
24 question?

25 MR. AGUIAR: Senator, one of the things right
26 now, DGS would actually be able to give you a diskette. If you
27 demanded a listing, they would give you a diskette. And on that
28 diskette are thousands of parcel numbers, but they don't tell

1 you where the property's located, how big a property it is, what
2 the property's being used for, is it vacant property, et
3 cetera.

4 So, it's going to take a few months probably to
5 get all the agencies and departments to actually report all
6 their assets and compile that information. So, I would say it's
7 going to take a couple of months to three months to compile that
8 information. It's a huge inventory, Senator, as you know.

9 CHAIRMAN JOHNSON: Senator Karnette.

10 SENATOR KARNETTE: I'd just like to compliment
11 you. The way you explained this to me in my office, really,
12 I've been using that information about why we don't know what we
13 have.

14 MR. AGUIAR: Thank you, Senator.

15 SENATOR KARNETTE: And I appreciate it.

16 Also, I enjoyed working with you when we were
17 both in the Assembly. You were always a nice person with whom
18 to work.

19 MR. AGUIAR: Thank you, Senator.

20 SENATOR KARNETTE: My question has to do with,
21 you said you were going to be asking for suggestions for
22 improving your agency if we had them. How are you going to ask,
23 and who would you ask for them from, because I have very good
24 people on my staff?

25 MR. AGUIAR: Thank you, Senator.

26 As you know, the Governor has called and put
27 together a California Performance Review, and that's well under
28 way now and in the process.

1 My Department of General Services has been asked
2 to participate in terms of office space, resources, and other
3 resources to make CPR a huge success. We're going to be
4 operating on a parallel track with CPR.

5 We're going to be asking other departments and
6 agencies, agency secretaries, to submit issues that have been
7 raised and concerns that have come to their attention in their
8 departments and their agencies relative to DGS, the Department
9 of General Services, the Department of Consumer Affairs,
10 whatever department under my agency has an issue with that
11 particular agency or department. We're going to ask for that
12 kind of input.

13 Parallel to that, the California Performance
14 Review will also be receiving information from the teams and the
15 team leaders and outside agencies and departments as to how we
16 can improve Department of General Services, Department of
17 Consumer Affairs, procurement, contracting, et cetera. So,
18 we're going to be asking the departments and agencies, Members,
19 anyone who deals with, has direct dealings with DGS or DCA for
20 input on how we can do it better and more efficiently.

21 SENATOR KARNETTE: So, if I'm on a board, I could
22 go directly to your department?

23 MR. AGUIAR: Sure, absolutely.

24 SENATOR KARNETTE: Thank you.

25 MR. AGUIAR: Thank you, Senator.

26 CHAIRMAN JOHNSON: Senator Knight.

27 SENATOR KNIGHT: No questions.

28 CHAIRMAN JOHNSON: Witnesses in support.

1 MR. COYLE: Mr. Chairman, I'll stand.

2 Tim Coyle, California Building Industry
3 Association, in strong support of the nominee, Mr. Aguiar.

4 MR. APREA: Mr. Chair and Members, Marc Aprea on
5 behalf of my clients, Anschutz Entertainment Group and Hewlett
6 Packard. We'd urge your confirmation.

7 MR. CENTER: Chuck Center, California State
8 Council of Laborers, in strong support of Secretary Aguiar.

9 MR. READ: Aaron Read, representing the CDF
10 Firefighters, Highway Patrol Association, Dental Hygienists,
11 Funeral Directors.

12 We had chance to work with Fred when he was here,
13 his six years in the Assembly, and he was of the utmost, highest
14 character, and we're thrilled that the Governor appointed him to
15 this job, even though we probably won't get a chance to work
16 with him very much.

17 MR. BERNACCHI: Mr. Chairman, Eddie Bernacchi on
18 behalf of the California Legislative Conference of the Plumbing,
19 Heating and Piping Industry, and the National Electrical
20 Contractors Association in strong support of Mr. Aguiar's
21 appointment.

22 Thank you.

23 MS. BOUMA: Mr. Chair and Members, Christy Bouma
24 representing the California Professional Firefighters.

25 Our organization has a long history of working
26 with Mr. Aguiar. He's an honorable and hard working man, and
27 it's our pleasure to support his confirmation.

28 MS. ZAMARRIPA: I'm like a fish out of water.

1 I'm Karen Zamarripa with the California State University. We're
2 here to support Secretary Aguiar's confirmation. We've worked
3 quite well over the last decade-plus with Fred on several
4 matters and look forward to working with him in his new role.

5 Thank you.

6 MR. EDELSTEIN: Alan Edelstein, representing the
7 California Alarm Association and several other clients with
8 interests before the Agency.

9 We think that this is a terrific appointment and
10 endorse it strongly.

11 CHAIRMAN JOHNSON: Witnesses in opposition?

12 SENATOR KARNETTE: Move it.

13 CHAIRMAN JOHNSON: The nomination's been moved.
14 Secretary, call the roll.

15 SECRETARY WEBB: Senator Karnette.

16 SENATOR KARNETTE: Aye.

17 SECRETARY WEBB: Karnette Aye. Senator Knight.

18 SENATOR KNIGHT: Aye.

19 SECRETARY WEBB: Knight Aye. Senator Romero.

20 SENATOR ROMERO: Aye.

21 SECRETARY WEBB: Romero Aye. Senator Johnson.

22 SENATOR JOHNSON: Aye.

23 SECRETARY WEBB: Johnson Aye. Four to zero.

24 CHAIRMAN JOHNSON: Congratulations.

25 MR. AGUIAR: Thank you, Senator. Thank you,
26 Members.

27 CHAIRMAN JOHNSON: Sunne McPeak, Secretary,
28 Business, Transportation and Housing Agency, welcome.

1 You may fire when ready.

2 MS. McPEAK: Good afternoon, Mr. Chairman and
3 Members of the Committee. Thank you for the opportunity to
4 appear here before you today. I am very honored to have been
5 appointed as Secretary of Business, Transportation and Housing
6 by Governor Schwarzenegger and look forward to working with all
7 of you to improve the performance of each of the departments
8 within the Agency.

9 Business and transportation and housing often
10 have not been directly connected. I view my primary
11 responsibility to support the Governor in bringing back
12 California's economy to help manage those departments, oversee
13 them, so that they are more efficient, and that together they
14 operate in a coherent way to create an environment in which
15 investment is attracted to California, that we retain jobs, and
16 that we can recover our economy and sustain economic growth.

17 I would welcome your questions. I've submitted a
18 lot of answers to the questions that I was asked to answer.

19 And I'd like to conclude my opening statement by
20 introducing my husband, John McPeak, who is here, who is a high
21 school math teacher. We've only been married 35 years, so not
22 quite as long as the Aguiars.

23 CHAIRMAN JOHNSON: The Aguiars have had longer to
24 work on it.

25 Senator Romero.

26 SENATOR ROMERO: No questions.

27 SENATOR KARNETTE: Yes, I have a few.

28 Do you think Proposition 42 can actually be

1 improved? We didn't talk about that. We did at other times,
2 but we didn't in my office.

3 Should we look elsewhere for more stable sources
4 of funding?

5 MS. McPEAK: Proposition 42 was overwhelmingly
6 approved by the voters, about 70 percent, in 2002, dedicating
7 the sales tax on the sale of gasoline in California to the
8 Transportation Improvement Fund.

9 It does include a provision for it to be
10 suspended in times of very severe economic conditions, and since
11 it was passed, it has in fact either been borrowed from or, as
12 we are proposing this year, to suspend it.

13 We are currently working through a very severe
14 budget structural problem and deficit. And I expect that we are
15 going to support being able to spur economic recovery and see a
16 time when revenues flow to the Transportation Improvement Fund.
17 We can get back to a time when we can balance our budget, and we
18 will have revenues that flow to the Transportation Improvement
19 Fund.

20 We are engaged right now in a process at the
21 direction of the Governor, working with all the stakeholders in
22 transportation, to look at how we can find innovative ways to
23 fund and finance transportation. Many of the suggestions that I
24 am hearing is that we should strengthen Proposition 42 so that
25 once we get our fiscal house in order, that we really dedicate
26 those funds and not so easily take those dollars away from
27 transportation.

28 It appears to me, Senator, that the public would

1 expect us to first respect the covenant with their vote, which
2 is to dedicate those dollars that they wanted to have earmarked
3 for transportation, to actually dedicate and use them for
4 transportation purposes. And there will come a time in the near
5 future, I dearly hope in our lifetime here, that we have solved
6 our budget problems, and we have dollars to invest in
7 transportation, and looking at strengthening Proposition 42 is
8 definitely on our agenda.

9 SENATOR KARNETTE: Then you feel that somehow or
10 other we can continue some of the projects that are going on
11 currently?

12 MS. McPEAK: In the proposed budget for next
13 year, the Governor pledged his commitment to working with all
14 the stakeholders in transportation and the labor and business
15 communities to find solutions to how can we can keep
16 transportation projects going. The day that the budget was
17 released, our agency also released a statement that I have
18 provided to you which outlined a process that we were going to
19 embark upon to implement the Governor's directive. That process
20 is the following.

21 For all of the transportation congestion relief
22 projects, there were originally 141 on that list, we are going
23 through, with the assistance of the California Transportation
24 Commission, Caltrans, and the local and regional sponsors of
25 those projects, we're going through a process to look at exactly
26 the status of each of those projects, what contracts have
27 currently been let, how many jobs are associated with those
28 projects, what is planned for next year, how many jobs will be

1 associated with those.

2 We're then also looking at what is going to be
3 the expected economic impact of those transportation
4 improvements in two ways. What will be the employment base
5 served by those transportation projects, and what is the
6 commitment of the host jurisdictions to accommodating the
7 housing necessary for projected population increases, and the
8 jobs associated with the employment base, in order to look at
9 economic impact.

10 We will have all of that information compiled and
11 available to the Governor's Office for discussions with the
12 Legislature. We are compiling them by March 31, and then
13 they'll be available for discussions with the Legislature.

14 We are also asking all those project sponsors how
15 those particular projects relate to goods movement, an
16 increasingly important not just infrastructure for our state,
17 but actually an industry cluster of logistics, of goods movement
18 for the rest of the country.

19 So, the first piece of our work is fact finding,
20 and then being able to provide to the Governor and to policy
21 makers information about the relative economic impact of each of
22 those projects.

23 We also are looking at what would it take to keep
24 the highest impact projects going through the next year, during
25 a period of time in which we're getting our budget balanced and
26 expect economic recovery to start generating money into the
27 Transportation Improvement Fund. And so, we're consulting
28 everybody we possibly can, and would invite your direct input to

1 us in any way that works for you to give an inventory of
2 options, of innovative financing, and also even some potential
3 funding sources, private and user funding sources, to assist in
4 those projects.

5 SENATOR KARNETTE: Thank you. That was very
6 good. It made me feel better. I heard it once before, so I had
7 a chance. I wanted it to be written down so I wouldn't
8 forget.

9 I have one other question. It's something that
10 we hadn't talked about at all. Can you clarify the
11 administration's position on high speed rail? Does the
12 administration seek to repeal the authority to bring a high
13 speed rail bond, or simply to postpone it?

14 MS. McPEAK: The Governor concluded his State of
15 the State message by saying he didn't come to Sacramento to cut,
16 but he came to Sacramento to build.

17 And I know in discussions with Governor
18 Schwarzenegger, he's personally very interested in the high
19 speed rail project. It holds a great potential economically for
20 the state.

21 The budget that is proposed for next year
22 actually adds \$300,000 to complete the Environmental Impact
23 Report. So, we are interested in getting that document
24 completed so that it can be used in the future.

25 The proposal is to move the date of the
26 election. I realize that the budget language is somewhat
27 unclear about repealing either the date set for the vote, which
28 was for November of this year, or the entire authority.

1 It was not -- the language does not propose to do
2 away with the High Speed Rail Authority or we would not have
3 actually said let's complete the environmental document.

4 I think some of the issues you're raising will
5 get clarified in the discussions of legislation that are now
6 moving through the Legislature.

7 SENATOR KARNETTE: Thank you.

8 CHAIRMAN JOHNSON: Senator Knight.

9 SENATOR KNIGHT: Thank you, Mr. Chairman.

10 We had talked earlier, and I want you to remember
11 the numbers 138.

12 MS. McPEAK: I got it, 138. Route 138, SB
13 138.

14 SENATOR KNIGHT: That's right, and 165th Street
15 and 138. And you indicated that the breaking of the ground, the
16 light is on March the fifth, I believe.

17 MS. McPEAK: As early as March 8th, but in
18 accordance with your schedule, Senator. So, if you want to be
19 there for the ground breaking --

20 SENATOR KNIGHT: No.

21 MS. McPEAK: Do you want to be there for the
22 ribbon cutting on April 1st?

23 SENATOR KNIGHT: It's not dependent on my being
24 there. Just get the job done.

25 MS. McPEAK: I'll get it done, Senator.

26 SENATOR KNIGHT: Question, in your review and
27 investigation of that particular light, when was it started? Did
28 it say?

1 MS. McPEAK: As you had shared with me, and I
2 took your recollection as the basis of the truth.

3 SENATOR KNIGHT: So you didn't have any other
4 information.

5 MS. McPEAK: No.

6 SENATOR KNIGHT: Okay, thank you.

7 MS. McPEAK: But you talked to me and we got it
8 done.

9 CHAIRMAN JOHNSON: Senator Knight, are you
10 satisfied?

11 SENATOR KNIGHT: I will be when the light goes
12 on.

13 CHAIRMAN JOHNSON: Do you want to put this matter
14 over?

15 SENATOR KNIGHT: No, I'll vote for her.

16 [Laughter.]

17 CHAIRMAN JOHNSON: Witnesses in support.

18 MS. SNYDER: Julie Snyder with Housing
19 California.

20 Our nonprofit developers have had an extensive
21 opportunity to work with Ms. McPeak in the Bay Area, and we look
22 forward to continue doing so at the state level.

23 MR. READ: Mr. Chairman and Members, Aaron Read
24 representing the California Highway Patrol Association. And
25 Secretary McPeak's record of supporting public safety and
26 transportation is very long and impressive. We're pleased to
27 support her.

28 And I might add a little postscript for Senator

1 Karnette, that we no longer seek to be removed from this agency.

2 MS. McPEAK: Thank you.

3 MR. PRICE: Pete Price with the California League
4 of Conservation Voters, also today for the Natural Resources
5 Defense Council.

6 Ms. McPeak has always shown appreciation for the
7 value of economic growth and environmental protection. We agree
8 with her on that.

9 Thank you very much.

10 MR. APREA: Mr. Chair and Members of the
11 Committee, Marc Aprea, representing Hewlett Packard, and its
12 most senior management has asked us to be here today to support
13 her confirmation.

14 Ms. McPeak has shown an unrelenting focus of
15 improving government and its output, and she has a well-earned
16 reputation for being a human dynamo. We'd urge your support.

17 Thank you.

18 MR. WIENER: Members of the Committee, Rob
19 Wiener, California Coalition for Rural Housing.

20 We think this is a very inspired choice. We've
21 often heard Ms. McPeak state that affordable housing is the
22 linchpin of smart growth. We agree and think that she'll be a
23 tremendous supporter of affordable provision in urban, suburban,
24 and rural areas, so we urge an aye vote.

25 Thank you.

26 MR. COYLE: Mr. Chair and Members of the
27 Committee, Tim Coyle, California Home Builders, in strong
28 support of the nominee, Ms. McPeak.

1 MR. SMITH: D.J. Smith with Transportation
2 California, representing everybody that constructs
3 transportation in the state, both business and labor, the San
4 Bernardino Associated Governments, the San Diego Association of
5 Governments, the Contra Costa County Transportation Authority,
6 Contra Costa County, and the Riverside County Transportation
7 Commission, all in strong support.

8 I've known Sunne McPeak and worked with her on
9 transportation issues for over 20 years, and you could not find
10 a better qualified candidate on not only transportation, but all
11 the other issues that transportation effects.

12 Thank you.

13 MS. McPEAK: That's really great, because I ate
14 all the cake at his wedding.

15 MR. CENTER: Chuck Center again supporting Sunne
16 McPeak.

17 It's a pleasure to be able to come up and testify
18 on two such great nominations by the administration.

19 Thank you.

20 MR. BERNACCHI: Mr. Chair and Members of the
21 Committee, Eddie Bernacchi again on behalf of the California
22 Legislative Conference of the Plumbing, Heating and Piping
23 Industry and the National Electrical Contractors Association.

24 Ms. McPeak's been a strong supporter of the
25 construction industry for many years, and we are here in support
26 of her nomination.

27 Thank you.

28 MR. PERRY: Mr. Chair and Members, Randy Perry

1 with Aaron Read and Associates on behalf of PORAC.

2 We've worked with Secretary McPeak for many
3 years -- unlike previous testimony, I won't say how many -- and
4 we fully support the appointment.

5 Thanks.

6 CHAIRMAN JOHNSON: Witnesses in opposition?

7 SENATOR ROMERO: Move the nomination.

8 CHAIRMAN JOHNSON: The appointment has been
9 moved. Secretary, call the roll.

10 SECRETARY WEBB: Senator Karnette.

11 SENATOR KARNETTE: Aye.

12 SECRETARY WEBB: Karnette Aye. Senator Knight.

13 SENATOR KNIGHT: Aye.

14 SECRETARY WEBB: Knight Aye. Senator Romero.

15 SENATOR ROMERO: Aye.

16 SECRETARY WEBB: Romero Aye. Senator Johnson.

17 SENATOR JOHNSON: Aye.

18 SECRETARY WEBB: Johnson Aye. Four to zero.

19 CHAIRMAN JOHNSON: Congratulations.

20
21 [Thereupon this portion of the
22 Senate Rules Committee hearing
23 was terminated at approximately
24 2:00 P.M.]

25 --ooOoo--
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28

CERTIFICATE OF SHORTHAND REPORTER

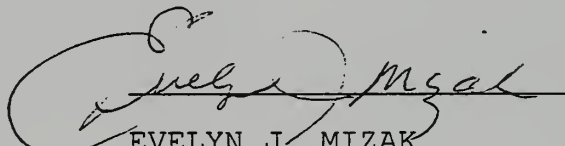
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That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

26th day of February, 2004.


EVELYN J. MIZAK
Shorthand Reporter

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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

MEMBERS ABSENT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

S. KIMBERLY BELSHE, Secretary
Health and Human Services Agency

STEVEN THOMPSON
California Medical Association

DON PETERSON
County Medical Services Program Governing Board

RAY MASTALISH, Executive Director
California Commission on Aging

DONNE BROWNSEY
California Nurses Association

BRUCE POMER
Health Officers Association of California

1 TERRI G. COWGER
2 California Children's Hospital Association

3 THOMAS RENFREE
4 County Alcohol and Drug Program Administrators Association of
5 California

6 MICHAEL ARNOLD
7 California Dialysis Council and California Clinical Laboratory
8 Association

9 FRANK MECCA
10 County Welfare Directors Association of California

11 JANE HENDERSON, Executive Director
12 California Children and Families Commission

13 HELYNE MESHAR
14 California Association of Alcohol and Drug Program Executives

15 RICK ROLLENS
16 Association of Regional Center Agencies

17 BRENDA PRIMO, Former Director
18 Department of Rehabilitation

19 PERRY RICARD, Public Health Director, Kings County
20 California County Health Executives Association

21 F. BURNS VICK, JR., Private Public Policy Consultant
22 Various Community-based Groups

23 ANA MARIA ORTEGA, Former Employee
24 Department of Health Services

25 ARTHUR G. KAWAMURA, Secretary
26 Department of Food and Agriculture

27 LINDA BOEHM
28 Common Ground, Orange County and San Juan Capistrano

GARY CONOVER
Western United Dairymen
California School Foods Service Association

PETE PRICE
Community Alliance of Family Farmers

1 TOM SEEBERG

2 Second Harvest Food Bank of Orange County

3 MARK LOWRY

4 Food Bank of the Community Action Partnership, Orange County

5 SHARON EGHIGIAN

6 California Association of Food Banks

7 LOUIE BROWN

8 Western Fairs Association

9 California Citrus Mutual

10 California Association of Nurseries and Garden Centers

11 California Grape and Tree Fruit League

12 Nisei Farmers League

13 California Cotton Growers

14 JERI HANSEN

15 California Women for Agriculture

16 KAREN ROSS, President

17 California Association of Winegrape Growers

18 GEORGE GOMES

19 California Farm Bureau Federation

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THE HISTORY OF THE
CITY OF BOSTON
FROM THE FIRST SETTLEMENT
TO THE PRESENT TIME

By SAMUEL JOHNSON, LL.D.
OF THE UNIVERSITY OF OXFORD.
IN TWO VOLUMES.
THE FIRST VOLUME.
LONDON: Printed by J. JOHNSON, in Pall-mall.
MDCCLXXV.

THE SECOND VOLUME.
LONDON: Printed by J. JOHNSON, in Pall-mall.
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THE FIFTH VOLUME.
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--ooOoo--

CHAIRMAN BURTON: Governor's appointees, Kim Belshe, Secretary, HHS.

Go ahead.

MS. BELSHE: Thank you.

Mr. Chairman and Members of the Rules Committee, my name is Kim Belshe. I appreciate the opportunity to talk with you this afternoon regarding my qualifications to serve as Secretary of the Health and Human Services Agency for the State of California.

I come to this position having dedicated most of my public career to public service, first at the federal level of government, and then at the state level of government during the 1990s. Most recently, I've advanced my interest in public policy and public purposes through philanthropy.

While I wasn't looking to return to state government, indeed, I had just accepted a new position in philanthropy, I did so because of my commitment to public service. I believe each of us has an obligation to contribute, and when called to serve, we have a responsibility to step up. As a fourth generation Californian with a dedication to our state, I stepped up when Governor Schwarzenegger asked me to serve three days into that new job. I did so recognizing both the obligation to serve as well as the opportunity that these jobs present to make a difference and to make a contribution in addressing some of the critical issues shaping California in a thoughtful, responsible, balanced way.

1 I returned to state service as well because of
2 my commitment to Health and Human Services. I really do believe
3 that there are few agencies that touch the lives of the people
4 of California more directly and personally as Health Services,
5 as individuals, as members of families, and as members of the
6 broader community.

7 At the same time, I do return to state service
8 mindful of the significant challenges we face as a state. The
9 magnitude of our budget challenges will require reductions in
10 spending generally, and in the Health and Human Services arena
11 in particular. While reductions in spending are inevitable, I
12 do believe we have to balance the imperative to better manage
13 and contain costs with the imperative to maintain the central
14 services, health and human services, to the state's most
15 vulnerable and at-risk populations.

16 I returned to state service confident that, not
17 withstanding our challenges, there are important opportunities
18 to advance reforms in such areas as obesity prevention, child
19 welfare services reform, and the overall organization and
20 structure of government. I believe we have the responsibility
21 to look closely at how services can be structured and delivered
22 and as effectively and efficiently as possible to meet the
23 state's historic commitment to its most vulnerable residents.

24 And in that regard, I believe Governor
25 Schwarzenegger's California Performance Review gives us an
26 opportunity to critically evaluate the performance of Health and
27 Human Services programs and activities with an eye towards
28 better and more rational service delivery, less duplication and

1 fragmentation, and improved performance and outcomes.

2 And finally, I return to state service informed
3 by my time as the Deputy Secretary to then Health and Welfare
4 Agency in the 1990s, and as the Director of the Department of
5 Health Services as well. Those experiences really underscored
6 to me that properly focused, structured, and staffed, agencies
7 can and must play a central role in policy design, development,
8 and implementation in the varied and complicated Health and
9 Human Services arena.

10 I believe quite strongly that the Agency's role
11 is not to duplicate the important work of departments, but
12 rather to add value through leadership and oversight, policy
13 integration, and policy program coordination of the Agency's
14 departments and activities.

15 While mindful of the challenges ahead, I am
16 grateful to the Governor for the opportunity to return to state
17 service. I look forward to providing leadership and oversight
18 of the Agency's efforts to promote the health and well being of
19 a growing and increasingly diverse California, and to working
20 with you and the broader Legislature, as well as the Agency's
21 many partners, in our individual and collective efforts on
22 behalf of the people of California.

23 I thank you for your time and would welcome any
24 questions.

25 CHAIRMAN BURTON: What are your plans for Cliff
26 Allenby?

27 [Laughter.]

28 MS. BELSHE: Mr. Chairman, you'll recall when

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1 you and I first talked about my appointment, you said, "Does
2 this mean Allenby works for you?" And I think my response at
3 the time was, "I don't think anyone works -- Cliff Allenby
4 doesn't work for anyone."

5 Cliff Allenby is an important, long-standing
6 public servant and leader of the Department of Developmental
7 Services, and is continuing to serve ably in that role.

8 In fact, I just saw him in the hallway, and we
9 were about to do a switch, but he'll be appreciative that your
10 first question was related to him.

11 CHAIRMAN BURTON: Does it make sense for the
12 state to start messing around with our Cal-WORKS program before
13 Congress re-authorizes the whole national program so we know
14 what we're dealing with?

15 MS. BELSHE: Well, the administration feels
16 strongly that we need --

17 CHAIRMAN BURTON: I know what they feel. I'm
18 asking you.

19 MS. BELSHE: Yeah, I think it does make sense. I
20 mean, I believe strongly when we look at the state's welfare
21 efforts, we need to strike a balance between what the state's
22 obligation is to providing important cash support and supportive
23 services to people in need, giving the skills, the tools, the
24 opportunities to become self-sufficient and self-supporting, and
25 at the same time people on aid have an obligation to step up and
26 take advantage of those opportunities to become self-sufficient
27 and self-supportive.

28 And while California's made great progress in

1 terms of the reduction in our case load, there are some
2 concerns that a significant percentage of the exempt able-bodied
3 adults are not participating in the program requirements of Cal-
4 WORKS. So, we do think we need to focus the program more
5 significantly on workforce participation to enhance the core
6 elements that focus on jobs and workforce, and we do so in part
7 in anticipation of some changes coming down the pike in
8 Washington.

9 I think it's very clear by all accounts, looking
10 at the House bill and the Senate bill, that there will be much
11 tougher work requirements associated with this program, and
12 California has some work to do there. So, I think the
13 Governor's proposal is right-on in terms of anticipating those
14 changes, and we're grateful for the opportunity that's already
15 been presented by your staff and others to engage in a
16 conversation about the Governor's proposal as well as some of
17 those anticipated changes also in Washington.

18 We appreciate there are a lot of important policy
19 questions here, and we're already engaging in those debates.

20 CHAIRMAN BURTON: Well, as you strengthen work
21 requirements, you know, there's a danger of eliminating
22 educational mental health services, which are going to be kind
23 of necessary to get people really off of welfare and into doing
24 work, as opposed to mandating something that probably is a
25 long-range thing.

26 So, the Legislature will probably wait to see
27 what the feds do.

28 I know that the Governor has proposed some cuts

1 in the IHSS program, eliminating the residual program. And the
2 whole IHSS theory, by and large, is to keep people, you know,
3 that it's cheaper having that than having them in the nursing
4 homes.

5 How can we determine, as we cut back on IHSS,
6 that we're not going to end up, or people are going to end up
7 flooding into nursing homes or those things?

8 I don't know whether you do this or whether
9 Finance's responsibility is this, but do you ever figure out, if
10 they save a buck here, that they're going to blow three dollars
11 there? At least the theory of treating people in their home is,
12 one, it's a better place to have the elderly and disabled, but
13 two, it actually saves money for the taxpayers.

14 MS. BELSHE: The In-Home Supportive Services
15 program, Senator, is a critical program in the overall continuum
16 of care. And you're quite right, it's a program that makes good
17 human sense in terms of affording the ability for people to stay
18 in their homes, and it makes good fiscal sense in terms of
19 giving them an option other than more costly out-of-home care.

20 That being said, it is a program that has been
21 growing dramatically in recent years -- nearly a billion dollars
22 over the course of the past five years, roughly 140 percent --
23 and it thus is an example of a program where the administration
24 has had to bring some attention to and has put forth some
25 difficult reductions.

26 The proposal you mentioned in terms of
27 elimination of the residual program is a reflection of this
28 state's difficult fiscal times, and a belief that we can no

1 longer afford the state-only funded program as opposed to the
2 majority of the program, which is supported with federal funds.

3 It would be our expectation that were the
4 residual program to be eliminated, that a good portion of those
5 individuals that currently receive in-home services through the
6 residual program would continue would continue to receive
7 services, albeit through the federal-state supported program.

8 But again, this is an example of a set of reform
9 proposals and reductions that are the subject of a lot of
10 conversation. But fundamentally, the administration definitely
11 does see IHSS as a critical part of the overall continuum of
12 care, and keeping people in home makes good sense. And frankly,
13 it's one of the reasons why California's nursing home population
14 has been very stable, notwithstanding the demographic change in
15 the aging of the population. And we feel it is because there
16 are a number of alternatives to institutional care in
17 California, and those are important programs in terms of keeping
18 people at home, out of institutions.

19 CHAIRMAN BURTON: There's been a lot of problems
20 in HHS, the automation projects, Child Support Services.

21 How can you kind of get your arms around those
22 programs to see that, one, they're more accountable? I think we
23 could help, but weather it's GSA or someone, so that the bids
24 are competitive, but really that they work.

25 I suppose Senator Johnson and I were involved in
26 the switch-over of Child Support Services from the DAs to the
27 state, into that department. I mean, the automation of it's
28 been kind of slow.

1 Do you have somebody in your shop that's trying
2 to keep an eye on the automation programs, as opposed to the
3 policy programs, and the various elements?

4 MS. BELSHE: First off, you're quite right, there
5 are a number of automation challenges within the Health and
6 Human Services Agency. And they are challenges that have
7 occupied a fair amount of my time, and indeed, even the
8 Governor's time. The issue of Child Support automation was the
9 subject in our conversation with Secretary Thompson when
10 Governor Schwarzenegger and I were back in Washington the week
11 before last. So, these challenges are getting very high level
12 attention.

13 The Agency's capacity has been somewhat limited
14 of late, given some of the funding reductions. So, the
15 Information Technology Officer at the Agency level is no longer
16 a position.

17 That being said, we would hope to be able to make
18 a case to you and your colleagues as to why it makes sense to
19 fund that type of position going forward. The scope and
20 complexity of the automation projects in the Agency, in my mind,
21 really merit that kind of senior leadership, senior attention at
22 the Agency, which frankly hasn't been there in recent years.

23 CHAIRMAN BURTON: Make a case to us, but are you
24 making a case to Finance and the Governor as to why it could be
25 penny wise and pound foolish?

26 MS. BELSHE: I can assure you that will be the
27 first conversation we have and are having.

28 CHAIRMAN BURTON: Second to last, and I'm trying

1 to remember, to see if the figures were right, there was a cut
2 of I think it was like four million dollars in one of our food
3 stamp programs, if I remember it right, that forfeited about
4 \$100 million dollars' worth of federal food stamp funds?

5 MS. BELSHE: You may be referring, Senator, to a
6 piece of new legislation enacted by Governor Davis that is one
7 of a number of bills that the administration has proposed
8 repealing because of the general fund costs associated with
9 implementing the new bills.

10 CHAIRMAN BURTON: So, we're going to save four
11 and give up a hundred?

12 MS. BELSHE: I think that's a fair question to be
13 raising, but in this time of very difficult decisions --

14 CHAIRMAN BURTON: It doesn't make any sense.
15 First of all, according to economic studies, as I recall, is
16 that every dollar in food stamps brings about -- and I don't
17 know how it does it, but it was a fairly valid study -- gets a
18 \$1.48 into the economy. So, if we're talking about monies that
19 are being made by whether it's a supermarket, a mom-and-pop
20 store, where they're able to hire somebody because they're
21 getting more food stamp business, it just seems again, like, if
22 you cut 100 million that costs you 4 million, it probably makes
23 sense. If you cut 4 million that costs you 100 million, that
24 doesn't make sense.

25 Lastly for Senator Ortiz, I forget exactly what
26 was spent on the stem cell research deal, but it's basically
27 like about \$28,000 a year?

28 MS. BELSHE: I believe this is another bill that

1 is on the list of pieces of legislation enacted in the previous
2 administration.

3 CHAIRMAN BURTON: That's what we're talking
4 about.

5 MS. BELSHE: Right. And that legislation, if I
6 recall, the start-up cost is in the neighborhood of \$300,000 to
7 \$500,000 a year.

8 CHAIRMAN BURTON: I've got 238.

9 MS. BELSHE: My understanding, again, consistent
10 with the general fund constraints, is that there's a lot of
11 attention being looked at in terms of alternative funding
12 opportunities, either in the research community, the
13 philanthropic community, as well as the genetic disease branch
14 fund. So, there is an active exploration in search of --

15 CHAIRMAN BURTON: If you repeal the bill, there's
16 no place for it to go and nothing for them to do. So, I would
17 think not funding something, or saying the funds have to be
18 obtained through a private foundation, maybe the Irvine
19 Foundation --

20 MS. BELSHE: There's any number of foundations I
21 can talk to, some of which are happier with me than others.

22 From a policy perspective, we're supportive of
23 the legislation. We feel there's important work that needs to
24 be done. If we can join with Senator Ortiz and others, whether
25 it be in philanthropy or other, we're willing to do that.

26 CHAIRMAN BURTON: I don't know, if you're
27 supportive of it, why repeal it? You can not fund stuff.

28 Senator Johnson.

1 SENATOR JOHNSON: No questions.

2 CHAIRMAN BURTON: Senator Knight.

3 SENATOR KNIGHT: Thank you, Mr. Chairman.

4 Glad to have you back in the state. I think the
5 state needs all the help it can get in these times.

6 But I've got a question concerning the activities
7 in San Francisco. There are licenses being issued in San
8 Francisco that probably do not meet the code, but they're coming
9 to you for recording, or whatever you do with them, and they're
10 not on the appropriate forms, I understand, so you're going to
11 send them back? Is that what you're going to do?

12 MS. BELSHE: That's right, Senator. The Office
13 of Auto Records, which is within the Department of Health
14 Services, issues the state form, and receives back and registers
15 and records valid, correctly filled out marriage licenses.

16 Consistent with state law, the State Registrar,
17 who oversees that office, communicated in writing to the City
18 and County of San Francisco a couple weeks ago, reminding them
19 of what state law is, and indicating that any altered form would
20 not be acceptable, would not be registered, would not be
21 recorded, and would be returned to the City and County of San
22 Francisco.

23 SENATOR KNIGHT: Only because of the
24 incorrectness of the form, not necessarily not in accordance
25 with codes as to who are registered on the license.

26 MS. BELSHE: Well, the code -- state law is clear
27 in terms of the standard state form that the counties are
28 supposed to be using, and that is the basis for the State

1 Registrar's letter to the City and County.

2 SENATOR KNIGHT: So, only to the form; right?

3 MS. BELSHE: The letter is specific to the form,
4 and the fact that the City and County is not in compliance with
5 state law as it relates to utilization, correct utilization of
6 the standard form.

7 SENATOR KNIGHT: Thank you.

8 CHAIRMAN BURTON: Senator Karnette.

9 SENATOR KARNETTE: I have two. I have a short
10 question and then something else I wanted to ask you about.

11 One of the Senators asked about the binational
12 border health. I suppose that's what's going on around San
13 Diego.

14 MS. BELSHE: Uh-huh.

15 SENATOR KARNETTE: Are you are working, or are
16 any changes being considered about how we handle the problems
17 there?

18 MS. BELSHE: It's actually something we're
19 just -- we have a meeting scheduled tomorrow to talk about in
20 the context of Board of Governors. One of the subcommittees
21 associated with the Board of Governors is focusing -- focuses
22 specifically on health. And so, that's an opportunity for the
23 new administration to get up to speed on some of the activities
24 in that regard.

25 The Department of Health Services has border
26 health office, so they do quite a bit of work with their
27 colleagues in Mexico. So, there's a number of activities going
28 on, and that's something we're just getting up to speed on.

1 SENATOR KARNETTE: Do you have anything to do
2 with Doctors Without Borders?

3 MS. BELSHE: That's a private nonsector
4 501(C)(3).

5 SENATOR KARNETTE: My other question is, I know
6 there are many agencies, and people use several agencies. And
7 oftentimes, one agency doesn't know that the person is in
8 another agency which is also helping, and that's quite
9 inefficient.

10 When we talked, you said you were going to try to
11 coordinate that. Do you have any plans? How are you going to
12 go about that?

13 It always seems to me like these silos don't like
14 to talk to each other, because if you're in one system, and
15 another system has you, it'd be nice if you knew each other.

16 MS. BELSHE: I couldn't agree with you more.

17 As you know, the Governor has announced something
18 called the California Performance Review, which is really taking
19 a top-to-bottom look at government processes, procedures, costs,
20 and so forth with an eye towards how do we restructure,
21 reorganize, streamline to improve government performance,
22 government outcomes.

23 And so, in the context of the California
24 Performance Review, I think we have a great opportunity to step
25 back and look across all of the twelve departments and one board
26 that make up the Health and Human Services Agency with an eye
27 towards how do we reduce the duplication and fragmentation that
28 occurs; how do we improve and make more rational service

1 delivery; how do we improve on the performance and outcomes of
2 what government is supposed to be doing?

3 And so, in that respect I'm really excited by the
4 opportunity. I think it's long over due, to take a fresh look
5 at the departments, at their activities, with an eye towards
6 streamlining, improving coordination.

7 Does it make sense to have twelve departments and
8 a board? I don't know, but it's long over due to take a look
9 at, are we serving the populations effectively and efficiently
10 as we can, and are we structured in a way to maximize outcomes?

11 At the end of the day, we need to be focusing on
12 the populations that these programs are intended to serve and
13 make sure we are providing services as efficiently and cost
14 effectively as possible. And that will require a lot of hard
15 work, both within the departments as well as the part of this
16 broader California Performance Review Team.

17 But it's a really exciting time, and we have high
18 hopes and expectations in that regard.

19 Thank you.

20 SENATOR KARNETTE: Thank you.

21 CHAIRMAN BURTON: Witnesses in support, briefly.
22 Name. Any written statements will be submitted for the record.

23 MR. THOMPSON: Mr. Chairman, Senators, my name
24 is Steven Thompson. I represent the California Medical
25 Association.

26 And in eleven years, I've only appeared before
27 you three times on behalf of an appointee, and two of those
28 occasions have been the nomination of Miss Belshe.

1 She's the kind of public service [sic] -- and
2 believe me, we don't always agree -- she's the kind of public
3 servant that everybody should be proud of at a time in which
4 government is often look ed askance by the population.

5 CHAIRMAN BURTON: You're in support.

6 MR. THOMPSON: Thank you.

7 MR. PETERSON: Thank you, Mr. Chairman and
8 Members, Don Peterson on behalf of the County Medical Services
9 Program Governing Board. It's a 34 county program providing
10 indigent health services in those counties.

11 We are in strong support of Ms. Belshe's
12 confirmation and urge an affirmative vote.

13 MR. MASTALISH: Ray Mastalish, Executive
14 Director, California Commission on Aging.

15 We are in support of Ms. Belshe to be confirmed
16 as Secretary of Health and Human Services, having worked with
17 her in previous positions that she mentioned.

18 I do have a written statement for the record.

19 MS. BROWNSEY: Donne Brownsey, representing the
20 over 55,000 nurses with the California Nurses Association.

21 We're pleased to support Ms. Belshe's
22 confirmation and urge that she be approved.

23 Thank you.

24 MR. POMER: Mr. Chairman, Bruce Pomer with the
25 Health Officers Association of California, the 50 physician
26 health officers in California's 58 counties.

27 We think Kim Belshe --

28 CHAIRMAN BURTON: You're in support?

1 MR. POMER: In support.

2 We had a great relationship, working relationship
3 with Kim Belshe when she was Director of Health Services, and we
4 think that she's the most qualified person that I've seen in the
5 30 years of experience I've had in public health to come to this
6 position.

7 MS. COWGER: Terri Cowger, on behalf of the
8 California Children's Hospital Association, in strong support
9 Ms. Belshe's confirmation.

10 MR. RENFREE: Tom Renfree, on behalf of the
11 County Alcohol and Drug Program Administrators of California, in
12 support of Kim Belshe's confirmation.

13 MR. ARNOLD: Michael Arnold in support on behalf
14 of the California Dialysis Council and the California Clinical
15 Laboratory Association.

16 MR. MECCA: Frank Mecca with the County Welfare
17 Directors Association, also enthusiastically supporting the
18 confirmation.

19 MS. HENDERSON: Jane Henderson, Executive
20 Director of the California Children and Families Commission, the
21 Prop. 10 Commission.

22 Ms. Belshe is one of our former commissioner and
23 we strongly support her appointment.

24 MS. MESHAR: Mr. Chairman and Members, Helyne
25 Meshar, representing the California Association of Alcohol and
26 Drug Program Executives, which are all of the community-based
27 nonprofit substance abuse treatment programs in the state.

28 We are in strong support of Ms. Belshe's

1 appointment.

2 Thank you.

3 MR. ROLLENS: Mr. Chairman and Members, Rick
4 Rollens, representing ARCA, Association of Regional Center
5 Agencies who provide services 180,000 people with developmental
6 disabilities in California.

7 We're here in strong support Secretary Belshe's
8 appointment.

9 MS. PRIMO: Brenda Primo, I was Director of the
10 Department of Rehab. Under the Wilson administration and now
11 work with health issues and disability, and work with a number
12 of organizations who are -- and I have to say this quite
13 frankly -- open to working with Kim Belshe because of the work
14 she did in Health Services.

15 She has shown to us, those people who work in the
16 disabled community, that she is willing to listen to the issues
17 and come up with creative solutions. And we know now is the
18 time for creative solutions, and we think she's the best person
19 to help create them.

20 MR. RICARD: Mr. Chairman, Perry Ricard, Public
21 Health Director of Kings County, representing the County Health
22 Executives Association.

23 Many of our members worked with Ms. Belshe when
24 she was at Department of Health Services. We are in support.

25 Thank you.

26 MR. VICK: Burns Vick, a private public policy
27 consultant since '76 here, representing community based groups.
28 We strongly support Ms. Belshe 'cause she's accessible, she

1 listens, and she's a problem solver.

2 CHAIRMAN BURTON: Thank you.

3 Witness in opposition, Ana Maria Ortega.

4 We have the information you put in, and the staff
5 will make that part of the record. So, if you could just
6 summarize your opposition, please.

7 MS. ORTEGA: Yes, sir.

8 CHAIRMAN BURTON: Thank you.

9 MS. ORTEGA: Good afternoon, honorable Members of
10 the Legislature.

11 I have in here a May 19, 1998 letter requesting
12 the FBI criminal investigation against Kimberly Belshe and her
13 administrators.

14 On March 25th, 1992, we met right here at Senate
15 Rules Committee. And I brought to her attention that there was
16 rampant medical fraud in Southern California. The health
17 providers were stealing millions. I gave her the summary that I
18 put to you, and seven days later she demoted me.

19 I wrote to her about maybe ten letters, asking
20 [sic] her that she was in contempt of court on a court
21 stipulated settlement under -- in 1989 under George Deukmejian.

22 I worked for Republicans; I worked for Democrats.
23 I have never seen such horrible management at the Department of
24 Health Services. I was there from 1989 to 1996, when she fired
25 me.

26 She fired me on an allegation. A courier was
27 sent. I was in court. And four Republican judges had already
28 ruled to my favor. They found that I was racially and sexually

1 harassed by Kimberly Belshe and John Rodriguez, her Deputy
2 Director.

3 What I asked for was 200,000, which at that time
4 would have been nothing, not even a penny to her at that time.

5 Well, she sent -- the Attorney General under Dan
6 Lungren sent a courier. He was in front of me for 30 seconds.
7 He gave me an envelope and he left.

8 The next day, the Attorney General writes a
9 letter to her legal staff saying that I yelled, I screamed, I
10 ran after the courier and hit him with an envelope, which of
11 course, was a made-up. They just made up the allegation.

12 My co-workers wrote her affidavits and gave them
13 to her. There's six e-mails that I wrote to her, asking her to
14 stop the racial harassment and sexual harassment against me.

15 I asked to have the courier present; she refused.
16 She just throws you out like if you were a dog or something.

17 There is no way in the state of California that
18 an officer or a state official could do that.

19 At the same time that she did that to me, she did
20 that to Sheldon Farrel, an African-American gentleman who had
21 worked for the state for 29 years. I had worked for the state
22 for 16 years. They fired Sheldon under her the month after she
23 fired me, saying that he -- they wrote -- they wrote statements
24 that he was going to blow them up; that he was going to blow up
25 his co-workers.

26 Frank Leon, who was the Chief of Audit Section,
27 said that that was not the case and that -- and so, they went
28 over Frank Leon's case to my co-worker -- to my ex-co-worker

1 Steve Kesler, Department of Finance, 1981, we worked together.

2 CHAIRMAN BURTON: I'm sorry.

3 These things are in the documents that we have;
4 right?

5 MS. ORTEGA: Yes, they are.

6 CHAIRMAN BURTON: We've got them under
7 submission, so if you could sum up.

8 MS. ORTEGA: Yeah, summering [sic] up, the 27
9 billion that she mismanaged, we cannot afford to have a person
10 like that in the State of California. I'd hope that Arnold
11 Schwarzenegger could find other individuals that would be the
12 Agency Secretary.

13 Like I said, I worked for Republicans; I worked
14 for George Deukmejian, and I never saw that kind of corruption
15 that I saw at the Department of Health Services.

16 CHAIRMAN BURTON: Thank you.

17 MS. ORTEGA: Thank you.

18 And it took 60 minutes. I called them and called
19 them, and it took 60 minutes for the Governor Davis to turn
20 around and say, what's going on at Department of Health
21 Services?

22 CHAIRMAN BURTON: I remember it well.

23 Thank you, ma'am.

24 Do you have any family here you want to
25 introduce?

26 All right, thank you.

27 Pleasure of the Committee?

28 SENATOR JOHNSON: Move it.

1 CHAIRMAN BURTON: Call the roll.

2 SECRETARY WEBB: Senator Karnette.

3 SENATOR KARNETTE: Aye.

4 SECRETARY WEBB: Karnette Aye. Senator Knight.

5 SENATOR KNIGHT: Aye.

6 SECRETARY WEBB: Knight Aye. Senator Romero.

7 Senator Johnson.

8 SENATOR JOHNSON: Aye.

9 SECRETARY WEBB: Johnson Aye. Senator Burton.

10 CHAIRMAN BURTON: Aye.

11 SECRETARY WEBB: Burton Aye. Four to zero.

12 CHAIRMAN BURTON: Congratulations, Kim.

13 Hold the roll open for Senator Romero.

14 [Thereafter, SENATOR ROMERO

15 voted Aye, making the final

16 vote 5-0 for confirmation.]

17 CHAIRMAN BURTON: Next, Arthur Kawamura,
18 Secretary of Food and Ag.

19 MR. KAWAMURA: Good afternoon, Mr. Chairman,
20 Committee Members.

21 I welcome this opportunity to share some thoughts
22 and some ideas about agriculture, about the Department of
23 Agriculture.

24 Many of us opened the newspaper this morning and
25 saw several articles, of course. One that was particularly
26 important was the passage of the two bonds, 57 and 58. And the
27 symbolic partnership that took place in this state to bring that
28 about something very amazing, something very wonderful for this

1 state because it sends a message that teamwork is possible, that
2 again bipartisan progress can lead to shared results. And we're
3 very excited to see how that transpires all across government,
4 all across the state.

5 Agricultural progress through cooperation and
6 partnership is something that I think we're all recognizing here
7 in the year 2004 as important. As we look many of the issues
8 that confront agriculture today, and when I say agriculture,
9 again, it is this interesting production system that gives us
10 both the food and fiber for the state.

11 We recognize that we have some -- many, many
12 difficult issues, many different challenges; challenges that we
13 would rather look at as opportunities and not problems. We are
14 looking for solutions with this new government, and specifically
15 in areas such as farm labor. A good example is how we are
16 dealing with a hand-weeding issue. There's no reason in the
17 world that we cannot find good solutions and come to good
18 compromises between the agricultural industry and the farmworker
19 groups.

20 My position as the Department Secretary would be
21 to help try and bring those parties together, and try and look
22 for creative solutions that are satisfactory to all parties.

23 In ways we do that, everything we do with our
24 department we're looking at three very important words: safe,
25 responsible, and fair. Those are all areas that we recognize
26 that the Department of Agriculture, as it helps to facilitate
27 the activity of agriculture in this state, we need to recognize
28 that those underlying values will help us progress tremendously

1 as we feed the rest of this country and actually the world.

2 Interestingly on the page, same page of the paper
3 this morning, there was an article about finding water on Mars.
4 And the reason that's pretty interesting to me, that's a water
5 issue that --

6 SENATOR KNIGHT: We can't transport it.

7 [Laughter.]

8 MR. KAWAMURA: No, but interestingly enough,
9 yesterday in Orange County, in the areas where I come from where
10 we try and do some farming still down there, we actually had a
11 hail storm down there in Orange County yesterday, which is
12 probably, for a farmer, one of the scariest things you'll ever
13 go through because you can lose everything you have.

14 CHAIRMAN BURTON: The size of golf balls?

15 MR. KAWAMURA: They weren't that big, luckily.
16 And very fortunately, it doesn't look like it was too bad a
17 problem.

18 But I wanted to remind everybody again, with
19 agriculture, and with all of humanity, the oldest conflict --
20 it's not the conflict between Republicans and Democrats. The
21 oldest conflict in the history of mankind is that there are
22 things that want to eat us, our food supply, our pets as well,
23 maybe, but there are bugs and pests and diseases out there. And
24 the Department of the Agriculture's main core competency, as
25 much as we call it to protect and promote agriculture, is to
26 protect agriculture. It's hard to promote something that we
27 can't protect.

28 And by saying that then, it is 2004. We're

1 looking forward to a lot of wonderful new solutions, sustainable
2 solutions to how we go about producing this amazing food supply
3 that we have here, which has been coined by many as the most
4 politically correct food supply ever produced in the history of
5 mankind.

6 All the ingredients for a California Renaissance
7 are in place in this state. And a California Renaissance sounds
8 wonderful. Many of us would be happy in agriculture to get to a
9 California resurrection of agriculture. We know we have to go
10 one step --

11 CHAIRMAN BURTON: Let's leave Mel Gibson out of
12 this and let me ask you a question.

13 [Laughter.]

14 MR. KAWAMURA: I'd be happy to listen to
15 those.

16 CHAIRMAN BURTON: I missed it, but I thought I
17 heard there's one of the things about getting the growers and
18 the workers back together again.

19 Would you use your influence to encourage growers
20 to get back to the table --

21 MR. KAWAMURA: Yes, I would.

22 CHAIRMAN BURTON: -- on the short-handled hoe and
23 the hand weaving situation?

24 MR. KAWAMURA: Yes, I would.

25 CHAIRMAN BURTON: Great; that's great.

26 What, if anything, is the Department doing to
27 monitor any antibiotic usage in food processing, you know,
28 animals?

1 We had bill last year that would report sales of
2 prescription antibiotics that are used on livestock, poultry,
3 and other food processes so that people can understand about the
4 stuff going in the animal's body, and then comes into our mouth
5 and into our bodies.

6 MR. KAWAMURA: Mr. Chairman, there was planned
7 for California a listening session and a discussion conference
8 to take place early this spring. That has been supplanted by a
9 national conference on the exact issue of antibiotic resistance
10 in Baltimore in April. And pending the results of that
11 conference, we will be hosting then in California a follow-up to
12 deal with whatever comes out of that conference.

13 CHAIRMAN BURTON: Why are we waiting for what
14 somebody does in Baltimore when ag., in theory at least, you see
15 it on the billboards, that California agriculture is bigger than
16 several other states combined? We don't want to wait to see
17 what comes out there if it's a problem here.

18 MR. KAWAMURA: With respect to the antibiotic
19 resistance?

20 CHAIRMAN BURTON: Yes.

21 MR. KAWAMURA: Again, it is an important issue.
22 But when you have all the experts from around the country coming
23 together to talk about that specifically, that's our --

24 CHAIRMAN BURTON: You want to have that under
25 your belt before you do your thing?

26 MR. KAWAMURA: Yes, absolutely.

27 CHAIRMAN BURTON: Okay.

28 Senator Johnson.

1 SENATOR JOHNSON: No questions.

2 CHAIRMAN BURTON: Senator Knight.

3 SENATOR KNIGHT: No questions.

4 CHAIRMAN BURTON: Senator Karnette.

5 SENATOR KARNETTE: I have a question regarding
6 agriculture, and how you can help us be more effective globally
7 and compete better, because we want to export a lot of our
8 agricultural goodies.

9 How can we do that?

10 MR. KAWAMURA: Again, globally, we already have
11 the reputation of if not the safest, one of the safest food
12 supplies in the world, and we have a tremendous following of
13 people that would love to buy those products.

14 SENATOR KARNETTE: And you're going to work on
15 mad cow disease; right?

16 MR. KAWAMURA: Absolutely.

17 SENATOR KARNETTE: And try to get all those cows
18 tested?

19 MR. KAWAMURA: Those are all important issues for
20 the State of California.

21 SENATOR KARNETTE: That's a part of it, I would
22 think.

23 MR. KAWAMURA: It's interesting. All the
24 different problems that we see today with regards to the
25 different diseases or pests or problems that can come along with
26 agriculture, that is our core mission. That is what we're here
27 for, is to protect the citizens of the state and the country, as
28 well as not only the citizens, the environment.

1 Again, our pest exclusion, the things that keep
2 the bad bugs out, we have those borders and those
3 infrastructures in place. Very old battle, but we keep them in
4 place to do just that, keep the bugs out that might take out an
5 environmental species, endanger the food supply, endanger the
6 crops crops.

7 SENATOR KARNETTE: What do we call our
8 agriculture now? We call it specialty crops?

9 MR. KAWAMURA: We have specialty crops, and we
10 have agricultural production. We have the most productive state
11 by more than double the next closest state in the nation here in
12 California.

13 SENATOR KARNETTE: And if we start raising corn,
14 we may not need it for gasoline; right? I think if we could
15 raise all that corn, we'd be in good shape.

16 MR. KAWAMURA: That goes back to the Agricultural
17 Renaissance we're all talking about.

18 CHAIRMAN BURTON: Witnesses in support?

19 Name, rank, serial number, please.

20 MS. BOEHM: Linda Boehm. My perspective is one
21 of stewardship of students with A.G. in Orange County and San
22 Juan Capistrano. It's Common Ground. It was seven acres where
23 students farmed, and A.G. was a major collaborative partner,
24 pulling together city, state, and federal funds for that.

25 I support him.

26 MR. CONOVER: Mr. Chairman and Members, Gary
27 Conover on behalf of Tom Mendez, President of Western United
28 Dairymen, as well as on behalf of Glen McAnally, President of

1 the California School Foods Service Association.

2 The dairy industry is one of the largest -- is
3 the largest ag. farm gated receipt commodity in California.
4 Some people say we should have a Secretary of Dairy as well as
5 as Secretary of Food and Ag.

6 CHAIRMAN BURTON: We used to have a Livestock and
7 Dairy Committee.

8 Do you have a prepared --

9 MR. CONOVER: We have letters in the record. The
10 school food service industry is interested in agriculture.

11 Thank you, Mr. Chairman.

12 MR. PRICE: Pete Price with the Community
13 Alliance of Family Farmers.

14 Mr. Kawamura is a broad-minded and imaginative
15 person. We welcome him to the department, urge his confirmation.

16 MR. SEEBERG: Mr. Chairman and Members of the
17 Committee, my name is Tom Seeberg, and I'm with the Second
18 Harvest Food Bank of Orange County.

19 A.G. has been an ally of the Food Bank for many
20 years. When he talked about solving problems, he's the right
21 man for that job because he is very aggressive and progressive
22 in his thinking, and he's a do-getter, and he'll get the job
23 done for you.

24 Thank you very much.

25 MR. LOWRY: Mark Lowry from the Food Bank of the
26 Community Action Partnership.

27 Similarly, A.G.'s been widely respected in our
28 community for his many charitable and community reinvestment

1 works. He's a man of great passion and vision, and we support
2 his nomination.

3 MS. EGHIGIAN: Sharon Eghigian with the
4 California Association of Food Banks.

5 We look forward to working with A.G. Kawamura as
6 the new Secretary.

7 Thank you.

8 MR. BROWN: Mr. Chairman, Louie Brown on behalf
9 of the Western Fairs Association as well as a wide variety of
10 production ag. organizations, in support of Secretary Kawamura.

11 MS. HANSEN: Good afternoon. My name is Jeri
12 Hansen, and I'm representing 3,000 members of California Women
13 for Agriculture, the largest all volunteer ag. organization in
14 the state.

15 We wholeheartedly support Mr. Kawamura for this
16 appointment.

17 MS. ROSS: Karen Ross, President of the
18 California Association of Winegrape Growers.

19 We're very proud to support him.

20 MR. GOMES: George Gomes, California Farm Bureau
21 Federation, in strong support.

22 CHAIRMAN BURTON: Do you have your family here?

23 MR. KAWAMURA: I have my wife, Diane, I'd like to
24 introduce you to.

25 CHAIRMAN BURTON: Surprisingly, in the district I
26 represent there's a lot of concern about the so-called factory
27 farming. It says, "Put that on your agenda."

28 Secondly, and I should have asked the Western

1 Dairymen, I have an organic dairy in my district, Strauss. And
2 they were trying to get out of the milk pooling bill because it
3 wasn't relevant to their life. You know, the dairy
4 associations, Western and others, had a problem with that, which
5 is kind of stupid, because I think Strauss was filing suit on
6 the whole concept of milk pooling, which, were I in milk
7 pooling, I wouldn't necessarily want that to go before the
8 courts.

9 I would think at some point, depending where
10 that issue is, but you may want to take a look at that and
11 discuss it with him. Because, being the only person alive who
12 voted on the milk pooling bill, I understand the issue.

13 As I say, if I was something who was in that milk
14 pool, I wouldn't want the court necessarily looking at what its
15 impact was. And some guy that wanted to buy a farm, wanted to
16 buy cows, but couldn't sell any milk because he didn't have a
17 piece of the pool.

18 So, I took care of two of my constituents, so
19 that's fine.

20 Any witnesses in opposition? Hearing none, call
21 the roll.

22 SECRETARY WEBB: Senator Karnette.

23 SENATOR KARNETTE: Aye.

24 SECRETARY WEBB: Karnette Aye. Senator Knight.

25 SENATOR KNIGHT: Aye.

26 SECRETARY WEBB: Knight Aye. Senator Romero.
27 Senator Johnson.

28 SENATOR JOHNSON: Aye.

1 SECRETARY WEBB: Johnson Aye. Senator Burton.

2 CHAIRMAN BURTON: Aye.

3 SECRETARY WEBB: Burton Aye. Four to zero.

4 CHAIRMAN BURTON: Congratulations.

5 MR. KAWAMURA: Thank you very much.

6 [Thereafter, SENATOR ROMERO
7 voted abstained, making the final
8 vote 4-0 for confirmation.]

9 [Thereupon this portion of the
10 Senate Rules Committee hearing
11 was terminated at approximately
12 2:21 P.M.]

13 --ooOoo--
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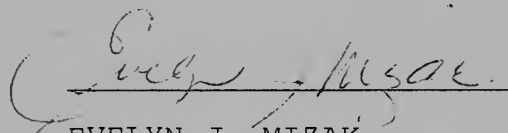
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That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this

4th day of March, 2004.


EVELYN J. MIZAK
Shorthand Reporter

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APPEARANCESMEMBERS PRESENT

SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

DONNA ARDUIN, Director
Department of Finance

TERESA A. SCHWARTZ, Warden
California Medical Facility, Vacaville

SUSAN HUBBARD, Assistant Deputy Director
Department of Corrections

DARLENE ESTES
Association of Black Correctional Workers

SUZANNA AGUILERA-MARRERO, Association President
Chicano Correctional Workers Association

GARY RIDDLE, Correctional Sergeant
California Correctional Supervisors Organization

1 RICHARD TATUM, President
2 California Correctional Supervisors Organization

3 BARBARA POWERS
4 SEIU Local 1000, CSEA
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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Governor's appointees appearing today, Director of Finance, Donna Arduin.

MS. ARDUIN: Thank you, Senator. Would you like me to begin?

CHAIRMAN BURTON: Yes.

MS. ARDUIN: Thank you, Mr. Chairman and Members, I want to thank you for the opportunity to appear before the Committee today.

I was truly honored when Governor Schwarzenegger asked me to served as his Director of Finance, and I was equally honored to appear before you as his nominee this afternoon.

If this Committee and the Senate choose to confirm my nomination, I hope to continue to work with the Governor, with his cabinet, and with the Legislature toward our shared goals of adopting a fiscally sound and responsible budget that moves the state towards fiscal balance.

It's been a little more than 16 weeks since Governor Schwarzenegger was sworn into office, but all ready there's much that we have been able to accomplish. Working together, the Legislature and Governor have been able to reach agreement on ballot measures that became Proposition 57 and 58. Working in a bipartisan manner, the Legislature has joined with the Governor to convince Californians that these measures were a critical component of California's economic recovery.

In the past few weeks, you've approved roughly one-half of the Governor's mid-year proposals. These are

1 concrete accomplishments that we can take much pride in.

2 Having said that, I do not minimize the gravity
3 of the task that lies before us. Many difficult and necessary
4 steps will have to be made to close a budget deficit for next
5 year, which we estimate to be \$14 billion dollars. But I'm
6 encouraged, and the Governor is encouraged, not only by the
7 bipartisan effort that we saw in Propositions 57 and 58, but by
8 the wonderful reception that I've gotten in meetings with you,
9 Members of the Committee, and in one-on-one meetings, as well as
10 meetings with other Members of the Senate and with the
11 Assembly.

12 So again, I thank you for the opportunity to
13 appear before the Committee this afternoon. I'll be happy to
14 answer your questions.

15 CHAIRMAN BURTON: Senator Johnson.

16 SENATOR JOHNSON: No questions, Mr. Chairman.

17 CHAIRMAN BURTON: Senator Karnette.

18 SENATOR KARNETTE: I was looking here at where
19 you said you had a few suggestions to improve the process of
20 determining mandated costs. How do you suggest we do that, for
21 changing how we determine mandate cost?

22 MS. ARDUIN: I think the key is to find a way for
23 us to collectively determine what costs are prior to legislation
24 being enacted, and prior to those mandates being implemented and
25 coming back to the state and then asking what the cost is.

26 So, I propose that working with staff and the
27 Legislature, we determine -- find a better way to establish what
28 we think those costs are in advance rather than, you know, after

1 the fact.

2 SENATOR KARNETTE: Well, I sit on Appropriations,
3 and it seems like they always tell us, the Committee, how much
4 everything costs.

5 You see something different from that?

6 MS. ARDUIN: The other things that we can do is
7 maybe be more specific about the way we want those to be
8 implemented, and more information that we and staff are able to
9 provide to you to help you be more specific in regards to
10 implementation direction.

11 For those who -- for the local governments who
12 may be implementing new statutes we can assure that your will
13 will be carried out in terms of what you think the lowest cost
14 to establish -- to implement those laws would be, as opposed to
15 having them go out in various -- using various methods, some of
16 them more costly than others, implement those laws, and then
17 come back to the commission and really bring us a bill.

18 SENATOR KARNETTE: Because the cost, I feel we
19 really have to be more, all of us, Legislators as well as
20 anybody else, we should be more efficient and spend our money in
21 an efficient manner.

22 CHAIRMAN BURTON: Senator Knight.

23 SENATOR KNIGHT: No questions.

24 CHAIRMAN BURTON: Senator Romero.

25 SENATOR ROMERO: Thank you.

26 Again, I compliment you on your power red suit.

27 You and I have had a chance to have a number of
28 conversations, but I want to go ahead and just have this

1 conversation again for the record.

2 In any department, we put forward a budget. You
3 project numbers, we put forward a budget, then we learn
4 sometimes that a certain department that may remain nameless for
5 the purposes of the confirmation, suddenly we learn that maybe
6 there's a thousand new employees in that department. It amazes
7 so many of us. Throws off budgets. We see deficiency bills
8 being run. More and more folks are saying, "Why are we running
9 a deficiency bill but we don't get truth in budgeting in the
10 first place?"

11 How do you tackle this problem? You project; you
12 estimate; we set forward a budget, and then we hear about a
13 thousand new people. It's costly. Deficiencies are there.
14 We're looking for cutbacks.

15 How do you propose to tackle this, and what will
16 you begin to do to make sure that any department shouldn't be
17 doing this in the future?

18 MS. ARDUIN: Thank you. That's a wonderful
19 question we've all been grappling with here.

20 The answers lie in providing the tools and
21 information so that we can have accountability, so that we can
22 budget properly, and that we can hold the agencies accountable
23 and that they can allow their managers to have the tools and
24 flexibility to hold themselves accountable to their budgets.

25 For example, well, we weren't going to name the
26 agency.

27 SENATOR ROMERO: Department of Corrections.
28 Let's go ahead and just say it.

[Laughter.]

MS. ARDUIN: As a wild example, the Department of Corrections.

You know, we propose and are very pleased that you're working with us on number of issues that need to be tackled there. The first one is reconciling their post assignments to their budget, something that hadn't been done in years. We asked them to do it. They brought forth some numbers. We are, over in the Department, working with them to get better information so that you, so the Governor, can have better information about what we need to have in terms of security at the prisons and properly budget for those to determine if they're spending more than their budgets.

We also propose to change our management structure so that we hold Wardens accountable, but give them the tools and flexibility to be able to manage their budgets, you know, at that level, as opposed to the way we're doing it now.

So, we need to be accountable, but we also need to provide, you know, protocols, establish standards, and require them, you know, to report back in a manner that we can see on a month-to-month or a day-to-day basis what's happening with their budgets.

In the long run, I also believe that we need to provide performance measures to you and to the Governor ultimately to show how the dollars that are being spent in those agencies are performing. But as you mentioned, first we need to get our budgets under control.

SENATOR ROMERO: Thank you. Good luck.

1 MS. ARDUIN: Thank you.

2 CHAIRMAN BURTON: A couple questions.

3 What would a revenue and expenditure estimating
4 conference be? You mentioned that in answer to one of the
5 things that we don't have that other states have had. What is
6 that?

7 MS. ARDUIN: It's done in various ways in other
8 states.

9 In New York, there's a conference similar to some
10 of the private meetings that the Department of Finance has here
11 every year, where we brought economists in, the Controller, the
12 Legislature. The Finance Department equivalent there brought
13 their own economists and outside economists in and spent a day
14 determining what the revenue estimates of the state would be.
15 Then we were all bound to use those numbers.

16 In Florida, there are established conferences in
17 law that are made up of someone from the Governor's Office,
18 somebody from each House in the Legislature, somebody from the
19 equivalent of the LAO, and they meet and set the numbers, you
20 know, twice a year; once for the Governor that the Governor must
21 use for his budget proposal, and then once for the ultimate
22 budget.

23 CHAIRMAN BURTON: All right. In other words,
24 it's something you get agreement on revenues so that you have
25 the same revenue situation; right? It's not you saying one
26 thing, and Liz Hill saying another.

27 MS. ARDUIN: Right.

28 CHAIRMAN BURTON: So, you're bound by that like

1 how?

2 MS. ARDUIN: In the states where it's in the
3 statute, the Governor and Legislature are bound to use those
4 numbers in putting together their budgets.

5 CHAIRMAN BURTON: What if the numbers change? In
6 other words, there'd just be estimates, so why would you be
7 bound? How bound are you to use the estimates?

8 MS. ARDUIN: The Legislature was required to use
9 them in its adopted budget.

10 Clearly, as you pointed out, after budgets are
11 adopted, though we often find out that the things are lower or
12 higher, in that case in Florida, the estimating conference is
13 required to get back together and determine what that is. And
14 that, in that particular law sets off, you know, some midyear
15 spending adjustment requirements.

16 CHAIRMAN BURTON: Up or down, or what?

17 MS. ARDUIN: Similar to what we have in
18 Proposition 58 now.

19 CHAIRMAN BURTON: So, it adjusts them down, but
20 if there's more money, in other words, if things were
21 under-estimated, they're not adjusted upwards?

22 MS. ARDUIN: I haven't seen anything in any state
23 that precludes the Legislature from coming back and spending
24 more money if it comes in the door.

25 Generally, the estimating conferences are called
26 in to determine, you know, what those estimates are. And the
27 Legislature is called back into session usually only if there's
28 a problem. But I've never seen anything that precludes a

1 Legislature in any state from spending more money.

2 CHAIRMAN BURTON: Well, what precludes us is the
3 two-thirds rule. So, that would be the same.

4 I think we make the expenditures, but I see some
5 benefit in trying at least to have everybody on the same page as
6 far as revenue estimates so that then we at least know how much
7 money, we're either spending more than we have, less than we
8 have. They're the same.

9 Explain to me this performance review, because I
10 got a call from somebody who wants to meet with me discuss
11 performance review.

12 Is that like the blow up boxes deal?

13 MS. ARDUIN: That's right. The Governor of
14 California's performance review is an offshoot of the blow up
15 the boxes initiative. And they've taken on a number of tasks,
16 including reorganizing state government to make it more
17 efficient.

18 As we were performing the audit for the Governor
19 of state finances, we really determined that more work needed to
20 be done to try to realign, you know, overlapping bureaucracy in
21 many cases. So, he formed the California performance review.

22 CHAIRMAN BURTON: Do you know how many times and
23 how many governors have done this, or attempted to?

24 MS. ARDUIN: I imagine.

25 CHAIRMAN BURTON: I don't know if you know this
26 one, but as part of a deal that was made between an outside body
27 and the Governor -- at least I guess a potential deal, because
28 we'd have so ratify it -- in the education area, took away

1 funding for school books, which during the campaign the Governor
2 spoke about the importance of them.

3 Now, how did that come about? That's a
4 recommendation that the administration's recommending,
5 eliminating funding for textbooks, but something that we can
6 either put in the budget or follow?

7 MS. ARDUIN: Certainly, you will have the final
8 say on that.

9 That came about as meetings that some members of
10 the administration had with the education community,
11 particularly the teachers union. And working with the CTA, they
12 outlined what they thought the priorities of the limited funds
13 were.

14 CHAIRMAN BURTON: I wonder what they were. They
15 weren't textbooks, obviously.

16 Are you familiar, and you may not be, but there's
17 a lawsuit over the adequacy of textbooks in the state. Do you
18 know about that?

19 MS. ARDUIN: I'm not.

20 CHAIRMAN BURTON: There's a lawsuit floating
21 around about the adequacy of textbooks in the state prior to
22 this. So as we keep getting bombarded with lawsuits, maybe you
23 ought to try to get the legal people to brief you on that,
24 because every time there's a lawsuit, the deficit seems to go
25 up. We have to spend more money.

26 When you and, I guess, you and the Governor
27 proposed the budget, there were certain programs that are cut.
28 If you cut the programs, you save some money.

1 But I mean, did you all look into cutting that
2 program over here, saves money here, but what the potential and
3 real potential costs would be like, say, if you drive people out
4 of IHSS and they end up in nursing homes. You know, it's a
5 savings here and a bigger cost increase there.

6 Did you try to balance that? You guys were here
7 with such a short timeframe that you did the best you could, but
8 it was pretty tough to figure beyond the initial deal?

9 MS. ARDUIN: That's always the challenge in
10 Health and Human Services in particular.

11 We tried to, and as you mentioned, in a short
12 period of time, tailor those proposals to those that would not
13 have those negative outcomes. And IHSS, for example, we
14 proposed eliminating the payment to folks in shared living
15 situations who are living with family members and others. The
16 payment for the caregivers is only specific to the time that
17 they spend doing general activities, you know, that they would
18 be doing, say, in cleaning their kitchens and so forth.

19 And I'm not saying that this is necessarily what
20 you all are going to decide to adopt.

21 CHAIRMAN BURTON: Weren't there more cuts in the
22 program than that?

23 MS. ARDUIN: I was giving that as an example,
24 Senator, of something where --

25 CHAIRMAN BURTON: We discussed that example.

26 But there was one, again, that I'm trying to
27 remember, but like there was a \$4 million dollar cut in part of
28 the food stamp program that conceivably would forfeit us 100

1 million in more federal food stamps money.

2 And then there's a study, and I don't know if the
3 study's accurate or not, but again, in theory, that for every
4 dollar of food stamp money spent in the state, because I guess
5 it gets into the grocery stores, and that it really was worth
6 about a dollar-thirty something in the economy.

7 I'm just wondering -- and again, I know that you
8 were on a short time span for this budget, and you're going to
9 be on another short time span -- but whether or not anybody
10 considered anything other than looking for immediate dollar
11 savings, not figuring out what the cost would be for the amount
12 of savings, or when it comes. Maybe you can revisit that, or
13 how are you going to do all this, given the short time span?

14 MS. ARDUIN: We're working very hard. Thank you.
15 I appreciate the question very much.

16 Given the -- even given the timeframe that we had
17 to put in particular the January budget together, the Governor
18 felt it was very important -- and I know from my experience that
19 it's very important -- that we look at long-term policy
20 proposals rather than just looking for the immediate short-term
21 savings.

22 And, you know, given the magnitude of the deficit
23 that we're facing, that was difficult to do. But I think it
24 showed, our actions showed in a couple of ways. The first one
25 that the Governor said, we're not going to get out of this in
26 one year. We're going to need to take a couple of years to get
27 the state into structural balance, and that will give us time to
28 implement long-term structural reforms in those programs.

1 For example, Medi-Cal. Secretary Belshe is
2 holding workshops, and having meetings, and gathering
3 information, and working with affected beneficiaries and
4 providers to determine what the best long-term restructuring of
5 that program is. And we did not, in our January budget, score
6 any savings in '04-'05 as a result of that, but expect it to
7 save money in the future.

8 We also in January, although it's probably
9 frustrating to some of you, chose not to have some complete
10 proposals on some of our Health and Human Service reforms,
11 Corrections reforms, and so forth, but chose to do so that we
12 would have some time to hold these working groups, to work with
13 Members of the Legislature, and determine what the best
14 long-term reforms are.

15 So, we're very cognizant of that, Senator, and I
16 think that will be very -- more important to the long-term
17 future of our budget.

18 CHAIRMAN BURTON: Just a couple other things.

19 What is done in the budget when we're all looking
20 for cuts is, they cut, quote, "overhead," whatever overhead is.
21 But just in the Department of Finance alone, one of the reasons
22 that -- and there's three of us that are on the Approps.
23 Committee -- and a bill will come up, and it'll be, we haven't
24 got a file on that.

25 I think one of reasons they don't have a file is
26 cutting back on the support services that would give the
27 information, give the file, to say to us, this is going to cost
28 \$5 million dollars, not 250.

1 And I think throughout the state government,
2 areas that could probably either save money or give an accurate
3 reflection, we end up cutting because, one, we aren't interested
4 in cutting services; or two, we cut administration 5 percent
5 across the board, and then you're down to 7 bean counters
6 instead of having 20.

7 And I think that we're going to have to figure a
8 way somehow to realize that overhead is not necessarily waste,
9 and it certainly isn't fraud, and might not even be abuse.
10 Which actually, I think we had a constitutional amendment along
11 with a level playing field that took those three items out of
12 any future budgets.

13 And the same thing's happening with us with Leg.
14 Analyst. They used to appear before the fiscal committees, not
15 budget, but with information. They would analyze every bill for
16 us, and then when cuts came in under Proposition 140,
17 surprising, the Legislature looked around and cut the Leg.
18 Analyst, so now they deal with no legislation except basically
19 the budget.

20 So, as I told the Director, it's my clear
21 intention to vote for her confirmation because I think, short of
22 I'm not sure what, that the Governor clearly has a right to his
23 own Director of Finance, regardless of how at least I see things
24 differently from a policy standpoint, which might well be
25 different with Health and Human Services, but it isn't. And
26 you've got the Governor's confidence.

27 You know, I think you're new to how we do things
28 in California. California, as different from most states, the

1 Legislature is truly, for most instances, co-equal with the
2 Governor, where in other states, they're almost a rubber stamp.

3 So, I've told the Director that's where I am on
4 that issue.

5 Do you have any family here?

6 MS. ARDUIN: No, sir.

7 CHAIRMAN BURTON: Witnesses in support?
8 Witnesses in opposition?

9 SENATOR JOHNSON: Move the nomination.

10 CHAIRMAN BURTON: Call the roll.

11 SECRETARY WEBB: Senator Karnette.

12 SENATOR KARNETTE: Aye.

13 SECRETARY WEBB: Karnette Aye. Senator Knight.

14 SENATOR KNIGHT: Aye.

15 SECRETARY WEBB: Knight Aye. Senator Romero.

16 SENATOR ROMERO: Aye.

17 SECRETARY WEBB: Romero Aye. Senator Johnson.

18 SENATOR JOHNSON: Aye.

19 SECRETARY WEBB: Johnson Aye. Senator Burton.

20 CHAIRMAN BURTON: Aye.

21 SECRETARY WEBB: Burton Aye. Five to zero.

22 CHAIRMAN BURTON: Congratulations.

23 MS. ARDUIN: Thank you.

24 CHAIRMAN BURTON: Teresa Schwartz, Warden,
25 Vacaville.

26 MS. SCHWARTZ: I'd like to thank the Senators for
27 having me this afternoon. It's an honor to be here.

28 I began my career with the Department of

1 Corrections as a correctional officer at San Quentin in 1982.
2 Since that time, I've had the pleasure of working at six of
3 California's state prisons, promoting my way up to the rank of
4 warden.

5 I think that the State of California, and the
6 prison system specifically, faces a time of tremendous change.
7 I look forward to the challenge of helping both the inmates and
8 the staff at California Medical Facility meet that change.

9 I'd be happy to take any questions you might have
10 of me.

11 CHAIRMAN BURTON: Senator Johnson.

12 SENATOR JOHNSON: No questions.

13 CHAIRMAN BURTON: Senator Romero.

14 SENATOR ROMERO: Thank you.

15 Let me first say, again too, that I did have an
16 opportunity to visit with you last December for World AIDS Day.
17 I congratulate you on the program that was put forward.

18 And for any Member who has not had an opportunity
19 to visit the facility, particularly on this day, and the
20 acknowledgement of the spread of HIV and AIDS, I would strongly
21 encourage you.

22 And I congratulate you once again on that very
23 successful program.

24 MS. SCHWARTZ: Thank you, Senator.

25 SENATOR ROMERO: Let me just ask you a couple of
26 questions, if I may. We've had a chance to speak privately, and
27 I appreciate that, but I want to ask about the compassionate
28 release process. If you can, help the Committee understand

1 more so the means by which somebody can request a compassionate
2 release, the criteria that you use to evaluate either
3 recommendation for or against a compassionate request release,
4 and issues that you think perhaps we should look at in perhaps
5 revising or taking a look at the policy on compassionate
6 release.

7 MS. SCHWARTZ: I'd be happy to.

8 The compassionate release process begins with the
9 treating physician for any inmate within the California
10 Department of Corrections.

11 At such time as the physician feels that the
12 inmate, first, has a terminal illness, and second, has six
13 months or less to live, they do a written report. In CDC
14 language it's a 128(c). And in that report, they describe what
15 illnesses the inmate has, what his prognosis is, what his
16 mobility or abilities are, and they send that forward up the
17 chain of command within the prison.

18 A caseworker writes an evaluation of the inmate's
19 situation overall, and it comes forward to the warden's office
20 written up as either a recommendation for or against
21 compassionate release.

22 Both the caseworker's review and my review
23 personally as the Warden are based on a series of case factors:
24 the history of violence in the inmate's past; his commitment
25 offense; the amount of time he has left to serve; the nature of
26 the crimes he committed. We also take a very objective look at
27 how sick he is, and how able he would be to have -- what his
28 quality of life would be if he was released. In many cases, I

1 personally go to the hospice and interview the inmate who is
2 asking for compassionate release as well to get a personal feel
3 for the situation.

4 Then I recommend either for or against, and it
5 continues up the chain of command through the Department of
6 Corrections, goes ultimately to the sentencing judge and then
7 the Governor.

8 SENATOR ROMERO: In terms of from the time that
9 you've been Warden at Vacaville, can you give us an idea on how
10 many requests have come forward, and what the percentage might
11 be of the requests that you have recommended approval on?

12 MS. SCHWARTZ: In the last year, the year 2003
13 specifically, there were approximately 30 requests for
14 compassionate release from CMF: 3 of those were recommended for
15 and 27 against.

16 I've only been at CMF since early May, so I would
17 estimate roughly half of those were mine.

18 SENATOR ROMERO: And again, it's based overall on
19 the factors that you have described beforehand?

20 MS. SCHWARTZ: Yes, ma'am.

21 SENATOR ROMERO: We had spoken previously about
22 the HIV infected inmates working in culinary jobs. At the time
23 that I visited you in Vacaville, I had urged, in fact, that
24 there be the acceptance of HIV infected inmates working kitchen
25 jobs. From the Centers for Disease Control, throughout the
26 literature, we know that HIV is not spread via food handling.
27 AIDS certainly is not a contagious disease in that sense.

28 I was concerned about at least what I had been

1 told was the refusal to have HIV inmates working food jobs.

2 Can you give me a little bit of indication as to
3 what has happened subsequent to my asking you about that in
4 December?

5 MS. SCHWARTZ: Yes. We've begun a comprehensive
6 education process for the inmates.

7 If you take a sample of the population of the
8 public at large, and you take a sample of the inmate population,
9 the culture is very different. So, I wanted to make sure that
10 we were approaching this in as safe an environment as possible.

11 We began with the Peer Education Group. And this
12 is a group of eight peer educator inmates who go out and educate
13 their peers on how HIV and AIDS are transmitted.

14 And they are stressing that it isn't transmitted
15 through casual contact.

16 Additionally, we have the MACs, the Men's
17 Advisory Committee, out walking and talking among the prison on
18 the issue.

19 And finally, I have my Chief Medical Officer over
20 in-patient care, Dr. Bick, is putting together a piece on video
21 that we can run on the in-house television system to further
22 educate the inmates, how you do catch it, how you don't; what is
23 safe, what is not.

24 I am approaching a learning curve with the inmate
25 population. My initial information that I'm getting back, the
26 feedback that I'm getting, is that they are not accepting of it.
27 So, I have some more work to do before that idea will be
28 completely acceptable.

1 SENATOR ROMERO: So to date, if I were to go to
2 Vacaville once again, would I expect to find concerns over HIV
3 infected inmates working in kitchen jobs? Are they there, are
4 they not there? Is there something that prohibits them from
5 working kitchen jobs?

6 MS. SCHWARTZ: I don't believe that there is a
7 law, per se, that prohibits them from that. It's more a matter
8 of history with CMF and educating the inmate population to be
9 accepting of it.

10 There is some language in the Gates decision and
11 the post-Gates legal actions that talks about why CMF does or
12 does not allow that, and basically states the Ninth Circuit
13 ruling that it was permissive for CMF to make that decision.

14 SENATOR ROMERO: But again, the Gates decision,
15 that's not specific to HIV and food handling; is it? Isn't that
16 with respect to housing?

17 MS. SCHWARTZ: That's correct. The Gates
18 decision was not specific to just HIV and AIDS.

19 SENATOR ROMERO: I would look forward to having
20 future communication with you regarding this.

21 Again, it's my hope that we can basically break
22 down the barriers. Education is important, but it's well, too,
23 to really make sure that there's no reason why, in terms of
24 health care, why an inmate might be prevented from doing a
25 kitchen job when there's absolutely nothing in the literature or
26 in science which suggests that it may be a means of
27 transmission.

28 So, I would hope that we can break down the

1 barriers.

2 I've seen the work that the peer educators have
3 done at Vacaville. I congratulate you on that. My hope is that
4 we can take the next step forward and remove that barrier.

5 Just one last question. There's been a lot of
6 discussion about the Code of Silence. What are you doing as a
7 warden to make sure that the Code of Silence is not tolerated,
8 and that folks do step forward and report misconduct, wrong
9 doing? What are you doing to ensure this, and what has been
10 your success rate or failure rate at this point?

11 MS. SCHWARTZ: I've taken several steps in that
12 arena. Recently, the Director put out memo in conjunction with
13 the Agency Secretary establishing a departmental standard on the
14 Code of Silence.

15 As a warden, I reiterated that policy locally at
16 my institution through the In Service Training Bulletin.

17 Additionally, over the last 60 days, it's
18 actually March and April training period, we have implemented a
19 one-hour special training that touches on several topics that I
20 am finding problematic to CMF: Over-familiarity; Code of
21 Silence; and ethics. And it's a one-hour special course taught
22 outside of the normally mandated courses that are required to be
23 taught, and hitting -- every single employee is required to
24 attend.

25 In addition to that, I have been working with my
26 supervisors and managers, teaching them personally, when you
27 have a difficult decision to make, you base that decision based
28 to your loyalty to honesty and integrity, not based on your

1 loyalty to any one person. When you take the personality out of
2 the decision, you're more likely to make the right decision.
3 And that's something I've been working with my management team
4 on.

5 SENATOR ROMERO: Thank you.

6 Again, Members, if I can just urge you, if you
7 haven't had a chance to go to Vacaville, especially during
8 World's AIDS Day or throughout, I highly recommend it. It's a
9 very moving program that has been put forward, and I really
10 congratulate the work of the Peer Educators and yourself in
11 doing that.

12 MS. SCHWARTZ: Thank you, Senator.

13 CHAIRMAN BURTON: Senator Knight.

14 SENATOR KNIGHT: No questions.

15 CHAIRMAN BURTON: Senator Karnette.

16 SENATOR KARNETTE: We talked a little bit about
17 this program you're piloting that I think had something to do
18 with the AIDS program, too, the Peers.

19 Would you explain that a little bit, because the
20 education, I think, of inmates is of extreme importance. And if
21 we could figure out a way to get more of them educated, then
22 when they get out perhaps they would not have to return. They
23 could get a job and do things that would keep them and make them
24 productive citizens.

25 Can you tell us a little bit about the pilot
26 program? You're working with the Peers, and also if you think
27 we could improve in that area?

28 MS. SCHWARTZ: Yes, ma'am.

1 The program that I was speaking to Senator Romero
2 about was the Peer Educators for HIV and AIDS.

3 SENATOR KARNETTE: Right.

4 MS. SCHWARTZ: And specifically, we have eight
5 inmates who have been specially cultivated and trained over the
6 years. They are very knowledgeable on the subject matter, and
7 they go out and walk and talk with the inmate population and
8 educate them. That is specific to HIV and AIDS.

9 Recently the California Department of Corrections
10 has begun implementation of a program called Corrections
11 Learning Network, CLN. This is an educational program that
12 comes in over the video stream.

13 And we did not receive staffing to go with that.
14 I have no budget to go with these television education
15 courses. So, what I'm trying to implement -- this program is
16 not up and running as of yet; it's being built -- is developing
17 peer educators who will then support the CLN program. Then it
18 would be no cost. I wouldn't have the cost for the teachers. I
19 could have inmate peer educators help implement that training
20 program.

21 SENATOR KARNETTE: I really think that's really
22 important. If you get something that you think works and
23 actually doesn't cost anything, I'd really like to know about
24 it, because I think that's one of the most important things we
25 can do in prisons.

26 There is another question that comes up often.
27 It has to do with the number of days that are allowed for
28 visitors. You explained that to me, but you think you are going

1 to have few more days because you're an urban area.

2 Could you talk a little bit about that?

3 MS. SCHWARTZ: Statewide, each prison has reduced
4 back to two days of visiting per week.

5 There is a consideration under plan with the
6 Department. It's a fiscal consideration. And nine institutions
7 are being considered to add back one day.

8 I'm not involved with that process. It's a
9 departmental level decision. However, it's going to come down
10 to dollars. It's a funding issue.

11 I know that the prisons that are in a higher
12 geographic area -- I'm halfway between Sacramento and San
13 Francisco. I get a good number of visitors. So, the prisons
14 that are in a good geographic location to have a higher number,
15 higher volume of visitors, are the prisons that are being under
16 consideration for the third day being added back.

17 SENATOR KARNETTE: Thank you.

18 CHAIRMAN BURTON: What's the fiscal consideration
19 on having family visitors come in?

20 MS. SCHWARTZ: The cost of the staffing, the
21 correctional officers.

22 CHAIRMAN BURTON: What are they doing when they
23 ain't doing that?

24 MS. SCHWARTZ: A lot of other functions around
25 the prison.

26 CHAIRMAN BURTON: Like?

27 MS. SCHWARTZ: Searching, counting, feeding.

28 CHAIRMAN BURTON: Well, if you have the

1 prisoners -- and the only visiting room I've ever been in was at
2 San Quentin -- but if you've got prisoners there, and prisoners
3 waiting to go in to talk to people, the guards don't have to be
4 looking for them somewhere else; right? They know where they
5 are.

6 MS. SCHWARTZ: I would assume so, yes, sir.

7 CHAIRMAN BURTON: So, first of all, you didn't
8 make the policy. You're just following orders.

9 MS. SCHWARTZ: It's a departmental policy that we
10 are cutting back to two days.

11 CHAIRMAN BURTON: According to the numbers,
12 between I guess July and September of 2003, you had 8400
13 visitors. What do they do? Run them in and out for three
14 minutes or what?

15 MS. SCHWARTZ: No, sir. We begin at 8:00 and
16 close at 3:00. Over the last three weekends we've had this new
17 program implemented, the fewest number of visits that we've had
18 to terminate on any given Saturday or Sunday is 5, and the
19 highest number is 27. The period of time --

20 CHAIRMAN BURTON: What do you mean by terminate?

21 MS. SCHWARTZ: They -- it's a first --

22 CHAIRMAN BURTON: You don't let them in, or tell
23 them, "Your time's up?"

24 MS. SCHWARTZ: Correct. When they come in --

25 CHAIRMAN BURTON: That's either/or.

26 MS. SCHWARTZ: No. Everybody's admitted in, and
27 they move forward. And then when you get to the point where the
28 visiting room is at maximum capacity, the first in are given the

1 option to leave. They ask for volunteers first, and then the
2 first in are the first out.

3 The minimum amount of time that has been allowed
4 is a three-and-a-half hour visit. So, even though there was
5 termination, it was after they had been in for three-and-a-half
6 hours.

7 CHAIRMAN BURTON: How big is your visiting room?

8 MS. SCHWARTZ: I don't know the exact square
9 footage, sir.

10 CHAIRMAN BURTON: It sounds like it's pretty big.

11 MS. SCHWARTZ: It's about three of these rooms, I
12 would say.

13 CHAIRMAN BURTON: I'm still at a loss to know,
14 and I guess I see people here from the Department that may well
15 come up and at least tell me, if not us, but I'm trying to
16 figure out the extra, quote, "cost" involved.

17 How many visitors do you have? How many visitors
18 do you have like, say, on a visiting day?

19 MS. SCHWARTZ: Roughly 200.

20 CHAIRMAN BURTON: How many inmates are being
21 visited? The same amount?

22 MS. SCHWARTZ: No, because it's not always
23 one-to-one. But roughly 200 visitors from the outside in.

24 CHAIRMAN BURTON: So, it'd be like give or take
25 150 inmates?

26 MS. SCHWARTZ: That would be fair.

27 CHAIRMAN BURTON: There's 150 inmates that
28 everybody knows where they are; right?

1 MS. SCHWARTZ: Correct.

2 CHAIRMAN BURTON: So there's I guess a guard
3 watching them?

4 MS. SCHWARTZ: Yes, two or three actually inside
5 the visiting room; correct.

6 CHAIRMAN BURTON: And so nobody else has to
7 figure out what those 150 people are doing during that
8 timeframe?

9 MS. SCHWARTZ: Well, the inmates who are in the
10 visiting room come from five different units around the prison.
11 And there are inmates in those other units that are still
12 occupying those housing units, so those officers are still in
13 those units.

14 CHAIRMAN BURTON: Right. So, there's people that
15 do nothing in the prison but oversee the visiting?

16 I'm trying to figure out if this is like really a
17 budgetary thing, or if this is, you know, some of the other
18 stupid things we do in the prisons that end up making the
19 prisons -- as the Governor said, they come out worse than when
20 they went in. That's this Governor, not the other one.

21 MS. HUBBARD: Good afternoon, Senator Burton.
22 Susan Hubbard from the Department of Corrections, as the
23 Assistant Deputy Director.

24 Last spring the Department, as other departments,
25 faced severe budgetary cuts. We took actions that Teresa
26 Schwartz and I have not seen in our 20-plus years.

27 As part of those recommendations, we put forward
28 cuts in visiting, and in a number of other areas within our

1 Corrections system.

2 CHAIRMAN BURTON: How much are you saving doing
3 that? I guess that's my question.

4 MS. HUBBARD: Well, the savings was more than 100
5 positions. And to look at --

6 CHAIRMAN BURTON: Is that 100 positions statewide
7 or 100 positions at Vacaville?

8 MS. HUBBARD: Statewide, sir.

9 And of course, these position and budgetary cuts
10 were approved by the Legislature.

11 CHAIRMAN BURTON: I understand the cuts. I'm
12 trying to understand what you saved. I know what the cuts were.

13 MS. HUBBARD: We saved the dollars that were
14 associated with the positions attributed to the visiting cuts
15 and other cuts that we've taken associated with the positions.

16 CHAIRMAN BURTON: So, 100 positions --

17 MS. HUBBARD: Just associated with visiting, yes.

18 CHAIRMAN BURTON: We didn't create 100 vacancies;
19 right? As I recall, there was an increase in hiring, not a
20 decrease, if I believe what I read in the paper.

21 MS. HUBBARD: I'm sorry?

22 CHAIRMAN BURTON: I read that there were 1,000
23 additional slots that were filled.

24 MS. HUBBARD: For other purposes there have
25 been --

26 CHAIRMAN BURTON: So, you're told to reduce, and
27 then you had added 1,000 slots?

28 MS. HUBBARD: Not quite simultaneously. Some of

1 those 1,000 positions that we've --

2 SENATOR JOHNSON: That's a great comfort, not
3 quite simultaneously.

4 CHAIRMAN BURTON: Go ahead. Not simultaneously
5 but what?

6 MS. HUBBARD: Of the 1,000 positions that we've
7 discussed in other hearings and certainly all read about, many
8 of those positions are associated with Administrative
9 Segregation overflow. Positions such as within our gymnasiums
10 or other activations that are budgeted, that we just had not
11 received full authority for.

12 And actually, only about 300 positions that we
13 have narrowed down that we are continuing to evaluate why did
14 hiring authorities bring up those positions.

15 So, the two issues, while related from a budget
16 factor, are not connected.

17 CHAIRMAN BURTON: Well, it would seem to me that
18 given the spotlight on the Department, that one of the things I
19 would do were I a big person in the Department is try to come up
20 with a real quick answer about those 300 people just so somebody
21 knew that it made sense.

22 In other words, you reduced visiting to save 100
23 slots, and you added a minimum of 300 slots that you don't quite
24 know whether they were required by court order, whether they
25 were required by this or by that.

26 To the Warden, have you noticed any morale factor
27 problems with the inmates as a result of the diminution of
28 visiting hours?

1 MS. SCHWARTZ: In all honesty, sir, they --

2 CHAIRMAN BURTON: Yes, I would hope. Yeah, in
3 all honesty.

4 MS. SCHWARTZ: They are unhappy about it. I've
5 heard more from the visitors than from the inmates. I've gotten
6 a lot of mail about it.

7 I have asked -- I have what's called an AOD, a
8 manager on duty each weekend. I've asked that they go out and
9 be present in the visiting room to help address any concerns and
10 questions, and make sure that it's running as smoothly as
11 possible each Saturday and Sunday.

12 CHAIRMAN BURTON: Are the concerns because the
13 visits that they make -- which doesn't seem like it if you get
14 three-and-a-half hours, although I guess if it's somebody you
15 really love and you only see them once a month, that's not a
16 long time -- but are they concerned with the fact that maybe
17 their days off of work are Wednesday and Thursday, and they
18 can't come? Or are they concerned by the fact that because
19 there's only two days, there's either a bigger rush or a bigger
20 whatever?

21 MS. SCHWARTZ: I've heard both complaints. There
22 is a scheduling issue for people who work week versus weekend,
23 as well as inmates who work week versus weekend.

24 And there are a large number of visitors to CMF
25 Vacaville that live locally. I have a large number of locals,
26 and they enjoy visiting four days a week, and they don't any
27 more. So, they're unhappy about it.

28 CHAIRMAN BURTON: We'll get off this, because I'm

1 sure that Senator Romero's committee and the Budget Committee
2 will get into this more thoroughly.

3 What would be wrong with having night visits?
4 What's the safety problem with night visits, assuming you had
5 people?

6 I mean, I was one of those that, in several of my
7 incarnations, had actually Thursdays and Fridays off. Or,
8 people could do that, they're able to do night visits after
9 working hours. What kind of safety problem would that cause?

10 MS. SCHWARTZ: There are inmates under my control
11 that are what is referred to close custody, and they raise a
12 higher level of security concern.

13 However, right now my visiting program is
14 directed by departmental policy, and it is a daytime program.
15 It is 8:00 to 3:00, Saturday-Sunday.

16 CHAIRMAN BURTON: I don't want you to get in
17 trouble because we're the ones who confirm, not the bosses, so
18 it won't hurt you with that at all.

19 I mean, there's nothing I hate worse than "it's
20 policy." I love to have a reason. I mean, if you allow an
21 incorrigible to have visits, which I don't know if they do or
22 don't, because that's one of the things that either you have to
23 earn or not earn, or you can lose by being a bad person, what
24 difference would it make if you had a model guy, you know, model
25 inmate seeing his or her family at night as opposed to during
26 the day?

27 MS. SCHWARTZ: If I understand your question
28 correctly, there is no preclusion to that. Over time

1 historically, many prisons have had alternate schedules with
2 evening visiting.

3 It'd be a very small part of my population that
4 would not be able to go out to night visiting if I had a night
5 visiting program.

6 CHAIRMAN BURTON: So, some prisons do, some don't
7 have night visits, or what?

8 MS. SCHWARTZ: My understanding is that currently
9 every prison in the state, with the exception of San Quentin, is
10 doing Saturdays-Sundays daytime visiting.

11 CHAIRMAN BURTON: That's just because that's how
12 it is. Makes a lot of sense to me.

13 Okay, I think Senator Karnette asked something
14 about this, but how is your distance learning program going? Is
15 that going pretty good?

16 MS. SCHWARTZ: It's coming along. We had
17 difficulty getting it set up initially. Now, the satellite dish
18 is up and running, and telecasting inmate programing six days a
19 week.

20 CHAIRMAN BURTON: You mentioned, if you've got
21 inmates that are working weekends, you said that, so they're
22 frozen, because of their work schedule, they're frozen out of
23 visits?

24 MS. SCHWARTZ: For the large part, no. We have
25 adjusted their work schedules.

26 CHAIRMAN BURTON: You can do that?

27 MS. SCHWARTZ: Yes. And many of them have
28 voluntarily exchanged their work schedules with inmates who

1 don't get visits, as well as many inmates work an early or late
2 schedule, so they can have the first part of the visiting day or
3 the later part of the visiting day.

4 CHAIRMAN BURTON: As best you can, you try to
5 adjust, okay.

6 Witnesses in support, briefly.

7 MS. ESTES: Hello. I'm Darlene Estes, the
8 Legislative Liaison for the Association of Black Correctional
9 Workers.

10 CHAIRMAN BURTON: Speaking on behalf of Brother
11 Mabry?

12 MS. ESTES: On behalf of Brother Mabry and the
13 the members of the Association.

14 We believe that Ms. Schwartz is well versed
15 within the correctional system.

16 Personally I can say that she has integrity. She
17 has knowledge of the facility, of the correctional system at
18 large, and is supportive of her staff. I went over to CMF, the
19 California Medical Facility, to speak with Ms. Schwartz and to
20 talk with a lot of the members there. And again, they feel that
21 she's a lady of integrity, and she's very supportive of the
22 staff and the inmates.

23 So, on behalf of ABCW, I'd like to support
24 Ms. Schwartz in her confirmation for Warden at the California
25 Medical Facility.

26 CHAIRMAN BURTON: Thank you very much, ma'am.

27 Next, please.

28 MS. AGUILERA-MARRERO: Good afternoon. I'm

1 Suzanna Aguilera-Marrero, Sam for short, with the Chicano
2 Correctional Workers Association.

3 Again, it's a privilege and a pleasure to be
4 before such a prestigious committee.

5 I'd like to say that the Chicano Correctional
6 Workers Association, Vacaville Chapter, is in support of the
7 Governor Schwarzenegger appointment of Teresa Schwartz to Warden
8 of the California Medical Facility, CMF.

9 The appointment of Ms. Schwartz to this position
10 is critical because it's an honor and a privilege, but it is
11 also a big responsibility. This assignment is tasked with the
12 obligation of managing an institution that has several
13 specialized missions.

14 One of those specialized missions, of course, is
15 the medical facility itself. The medical services, the special
16 medical diets, the medical equipment, the medication needs, the
17 staff and personnel all around require clinical knowledge. This
18 does not mean that all staff have to have medical backgrounds.
19 However, it does mean that staff has to be well versed because
20 it's the nature of the beast in terms of the facility. You have
21 to be well versed in some medical knowledge and/or have a
22 network of medical knowledge based colleagues.

23 The diversification of the staff is an essential
24 part of the institution because of the inmate population that it
25 provides services for. The need for sensitivity, compassion,
26 care, therapy, and sincere human instinct to want to help has to
27 be effectively balanced with the primary factor of institutional
28 staff and inmate safety and security.

1 The policies and procedures of Department are
2 being carefully reviewed, and implementation of new processes
3 are occurring fast. The development of better ideas is being
4 implemented regularly, and the ability to learn, observe,
5 evaluate, assess, and make recommendations for improvement are
6 an essential part of the Department's success.

7 The ability to think on your feet, and to be
8 excited about change, and to have the energy to make change for
9 a positive outcome is not only welcome but it is the thing for
10 now. Not just new ideas that are evaluated and assessed with
11 the new steadfast frequency of the implementation, but real
12 functional concepts that are innovative, that are fresh, that
13 are creative, and are currently occurring within the
14 Department.

15 The excitement is real, and it's positive, as I
16 said, but it does take a cohesive team to make it happen. That
17 means that we have to be in support of our new leadership. It
18 begins with inspiring, motivating staff, and it starts from the
19 administrative food chain down to the grassroots, for the
20 strength of our representation is serving. The taxpaying
21 citizens of this great --

22 SENATOR JOHNSON: The administrative food chain?

23 MS. AGUILERA-MARRERO: Yes, from the top to the
24 bottom. That's what I refer to it, because it has to start with
25 examples, and you have to set the mood and the pace. So, most
26 definitely that's how I address it.

27 The grassroot organization believes that this
28 appointment is a necessary ingredient to enhance the

1 Department's management leadership team and ask that you confirm
2 her appointment. We support the appointment that the Governor
3 has deemed appropriate and want to help our profession to gain
4 the level of integrity by being a part of the team that supports
5 public servants.

6 We entered the field of law enforcement knowing
7 and respecting our chosen field, and want to ensure that the
8 high standard improves with the right caliber of leaders. We
9 believe this to be true of Ms. Schwartz.

10 We ask that you support her as we do, the Chicano
11 Correctional Workers Association.

12 Thank you for your time.

13 CHAIRMAN BURTON: Thank you, ma'am.

14 Next.

15 MR. RIDDLE: I'd like to thank the Committee for
16 this brief moment. My name is Gary Riddle. I'm a correctional
17 sergeant at the California Medical Facility, where I'm the
18 Chapter President of the California Correctional Supervisors
19 Organization.

20 We have found in our dealings with Ms. Schwartz
21 that in these times, especially with a lot of closures and in
22 this current closure with the Correctional Training Center,
23 we've found that Warden Schwartz has been most amenable in
24 helping the supervisors get through this type of a selection
25 process, and knowing that we will be losing sergeants at our
26 institution to place these.

27 We have found Ms. Schwartz to be very open, the
28 open-door policy is there.

1 And of the majority of the supervisors that I
2 represent at CMF, we are in full support of her nomination and
3 placing as Warden at CMF.

4 Thank you.

5 CHAIRMAN BURTON: Next.

6 MR. TATUM: Good afternoon, Committee. I'm
7 Richard Tatum. I'm the State President of the California
8 Correctional Supervisors Organization.

9 With it, with all the media blitz and all the
10 things that's been happening with the Department of Corrections,
11 and the committees, several of them chaired by different people,
12 and they've been attended by some of the folks on this
13 committee, I find that, number one, we are in need for some
14 folks that have honesty, ethics, and credibility.

15 I think that our organization feels Ms. Schwartz
16 has all those, and she has the experience.

17 With that, we request that you confirm her.

18 Thank you.

19 CHAIRMAN BURTON: Yes, ma'am.

20 MS. POWERS: My name is Barbara Powers. I
21 represent SEIU Local 1000, CSEA. We represent the rank and file
22 members that are noncustody inside the institutions.

23 At this time, I would like to take a quick moment
24 to thank Senator Romero for all of her efforts in trying to
25 bring some sense of relief to the Department. These are issues
26 that have affected us greatly throughout this lengthy period.

27 With that in mind, we have contacted Ms. Schwartz
28 and asked for her commitment to our membership, to honor the

1 language of the contract, to help resolve issues, and hold
2 regularly scheduled labor-management and health and safety
3 meetings.

4 She has expressed and committed to us that she
5 wants to work with us and work together on anything that might
6 surface. We are looking forward to working with her based on
7 these commitments, and hope that everything will go smoothly
8 forward.

9 The CSE Committee, which is the Correctional
10 Institution Committee, will be forwarding a written statement to
11 you within the week. Thank you.

12 So, we would like to offer our support for her
13 confirmation.

14 CHAIRMAN BURTON: Thank you, ma'am.

15 Any witnesses in opposition? Hearing none, call
16 the roll.

17 SECRETARY WEBB: Senator Karnette.

18 SENATOR KARNETTE: Aye.

19 SECRETARY WEBB: Karnette Aye. Senator Knight.

20 SENATOR KNIGHT: Aye.

21 SECRETARY WEBB: Knight Aye. Senator Romero.

22 SENATOR ROMERO: Aye.

23 SECRETARY WEBB: Romero Aye. Senator Johnson.

24 SENATOR JOHNSON: Aye.

25 SECRETARY WEBB: Johnson Aye. Senator Burton.

26 CHAIRMAN BURTON: Aye.

27 SECRETARY WEBB: Burton Aye. Five to zero.

28 CHAIRMAN BURTON: Congratulations.

1 [Thereupon this portion of the
2 Senate Rules Committee hearing
3 was terminated at approximately
4 2:35 P.M.]

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I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 11th day of March, 2004.


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SENATOR JOHN BURTON, Chair

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR WILLIAM KNIGHT

SENATOR GLORIA ROMERO

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

THERESE M. DELGADILLO, Deputy Secretary
Health and Human Services Agency

BRUCE POMER
Health Officers Association

DONNE BROWNSEY
California Nurses Association
Breast Cancer Fund
COMP

JUDITH REIGEL
County Health Executives

CATHY SENDERLING
County Welfare Directors Association

1 JERRY R. JOLLY, Director
2 Department of Alcoholic Beverage Control

3 PAUL A. SMITH
4 California Grocers Association

5 ROGER JON DIAMOND
6 Attorney for Adult Cabarets

7 THOMAS P. McCAFFERY, Chief Deputy Director
8 Health Services Department

9 STEVE THOMPSON
10 California Medical Association

11 PETER S. SILVA, Member
12 State Water Resources Control Board

13 SENATOR DENISE DUCHENY

14 MIKE FALASCO
15 Wine Institute

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P-R-O-C-E-E-D-I-N-G-S

--ooOoo--

CHAIRMAN BURTON: Therese Delgadillo, Deputy Secretary, HHS.

MS. DELGADILLO: Good afternoon, Mr. Chairman and Members. Thank you for the opportunity to come before you today for consideration of my appointment to serve as Deputy Secretary for the Health and Human Services Agency.

I'm honored to have been selected by Governor Schwarzenegger to serve in this important position. As Deputy Secretary, I recognize that the programs within the Health and Human Services Agency touch the lives of virtually every Californian, either through direct client services, or through the protection of public health. I also understand the difficult task that we must undertake to continue providing essential services during these financially challenging times.

I believe the success of our efforts will be predicated on our ability to work collaboratively with all stakeholders involved in the process. My experience as an appointee in both Republican and Democrat administrations, and my work in the Legislature and Congress will help guide my efforts to ensure full participation.

I hope together as a bipartisan team we can ensure essential services continue to be provided to those in need while implementing strategies to better manage and control these programs over the long term.

Finally, not unlike many other public services -- servants, I have personally participated in several of

1 California's Health and Human Services programs. I was a teen
2 mother for a short time on welfare, receiving food stamps and
3 covered by Medi-Cal. In addition, I have provided respite care
4 for the developmentally disabled and served as a foster parent.
5 I know first-hand the importance of these and other essential
6 services and will bring my experiences to help and form good
7 public policy decisions.

8 Once again, thank you for the consideration of my
9 appointment, and I'd be happy to answer any questions from the
10 Committee.

11 CHAIRMAN BURTON: Senator Romero.

12 SENATOR ROMERO: No questions.

13 CHAIRMAN BURTON: Senator Johnson.

14 SENATOR JOHNSON: No questions.

15 CHAIRMAN BURTON: Senator Knight.

16 SENATOR KNIGHT: No questions.

17 CHAIRMAN BURTON: Senator Karnette.

18 SENATOR KARNETTE: No questions.

19 CHAIRMAN BURTON: Are you going to keep the
20 Legislature advised or give us a chance to take a look at what
21 you're asking for the waiver, and the approval of the waiver?

22 MS. DELGADILLO: On the Medi-Cal reform issue,
23 Senator, yes.

24 Actually from the beginning in January, we held
25 two public -- two public forums of which legislative staff --

26 CHAIRMAN BURTON: Are you going to keep us --

27 MS. DELGADILLO: -- and we are going to keep you
28 informed. And also, we will be bringing the waiver to you in

1 May for consideration through the budget and policy process and
2 for your approval before we submit it.

3 CHAIRMAN BURTON: Thank you.

4 Have you figured out how you're going to
5 coordinate the Medi-Cal redesign with the current programs in
6 Mental Health, DD and IHSS?

7 MS. DELGADILLO: That's been a critical issue in
8 going forward. We've already brought in the directors of all of
9 our departments within the Agency together to make sure that
10 they were working together and participating. And we've asked
11 each of those departments to participate in the public forums
12 that are taking place currently around the state to gather input
13 for the design.

14 CHAIRMAN BURTON: How are you going to determine
15 as we go through programs, reducing, some of them recommended
16 for elimination, that the ones that either have the highest
17 priority to keep, but also that sort of if we do something, it's
18 penny wise and pound foolish?

19 Like I keep recalling, and I wouldn't swear that
20 it's accurate, but there's like a 4 or 5 million dollar general
21 fund food stamp reduction which forfeits like about 20 times
22 that amount of money in federal funds, which to me doesn't make
23 much sense because the food stamp money may go to get poor
24 people food, but it also goes into the businesses in my
25 district, the corner grocery stores, or even the chains, for
26 that matter.

27 Is somebody going to take a look at that thing as
28 opposed to, well, somebody else isn't doing this.

1 MS. DELGADILLO: Absolutely, Senator. And it's
2 in the food stamps and the WIC program, as another example of
3 something like what you've mentioned. We're actually working
4 with each of our department directors to go back and assess each
5 of their programs and to determine, in light of the fiscal
6 constraints, what we can and can't do, and what are our
7 mission-critical services.

8 And understandably during the prior
9 administration, in some of the departments the decision was made
10 when the cuts came down to cut everything across the board
11 equally. And in doing so, many of the programs have now gotten
12 to the point where they're not operational. And I don't think
13 we can continue down that effort, so we're asking the
14 departments to evaluate them and to prioritize them.

15 CHAIRMAN BURTON: The point was in one
16 recommendation, I guess, from the Director of Finance. But
17 anyway, it was a 4 million dollar cut, give or take, in general
18 fund because nobody else was doing it. But if you're forfeiting
19 what was like, I think, almost close to 100 million in food
20 stamps, which returns even more than the dollar amount in the
21 economy. For that kind of dough, for all you know, at least
22 there'll be seven people hired in eight different Mom and Pop
23 stores somewhere in the state that, probably, when it's all
24 over, will make up for that.

25 Is Allenby still with DD?

26 MS. DELGADILLO: He sure is. Pleasure to work
27 with.

28 CHAIRMAN BURTON: Witnesses in support, please.

1 Briefly.

2 MR. POMER: Mr. Chairman, Bruce Pomer with the
3 Health Officers Association of California in strong support of
4 this outstanding professional, Terri Delgadillo, whom we've had
5 an excellent relationship with the last several years.

6 Thank you.

7 MS. BROWNSEY: Mr. Chairman and Members Donne
8 Brownsey, representing the California Nurses Association, the
9 Breast Cancer Fund and COMP in support of this outstanding
10 nomination.

11 I've known Terri for over 15 years. I mean, she
12 is the best of public service, and we were thrilled that she has
13 this new position and look forward to working with her.

14 Thank you.

15 MS. REIGEL: Judith Reigel, County Health
16 Executives Association. We strongly support Ms. Delgadillo's
17 appointment. We worked closely with her when she was at the
18 Department of Health Services on bioterrorism efforts and found
19 her to be incredibly responsive and capable.

20 CHAIRMAN BURTON: Thank you.

21 MS. SENDERLING: Thank you, Mr. Chairman,
22 Members. Cathy Senderling, with the County Welfare Directors
23 Association.

24 CWDA Is pleased to support the confirmation of
25 Ms. Delgadillo, and we urge you to support her confirmation.

26 CHAIRMAN BURTON: Do you have any family here?

27 MS. DELGADILLO: I have my daughter and
28 son-in-law, Gloria and Matt Peterson, with me today. She's

1 hiding in the back of the room.

2 CHAIRMAN BURTON: Witnesses in opposition?

3 Hearing none, move the nomination.

4 SECRETARY WEBB: Senator Karnette.

5 SENATOR KARNETTE: Aye.

6 SECRETARY WEBB: Karnette Aye. Senator Knight.

7 SENATOR KNIGHT: Aye.

8 SECRETARY WEBB: Knight Aye. Senator Romero.

9 SENATOR ROMERO: Aye.

10 SECRETARY WEBB: Romero Aye. Senator Johnson.

11 SENATOR JOHNSON: Aye.

12 SECRETARY WEBB: Johnson Aye. Senator Burton.

13 CHAIRMAN BURTON: Aye.

14 SECRETARY WEBB: Burton Aye. Five to zero.

15 CHAIRMAN BURTON: Congratulations.

16 Jerry Jolly, ABC.

17 MR. JOLLY: Thank you, Senator Burton and Members
18 of the Senate Rules Committee, for the opportunity to address
19 you today.

20 It's truly an honor to be considered for
21 confirmation of Director of the Alcoholic Beverage Control.

22 I'd also like to introduce my wife, Sharon, who's
23 also here, and thank her for her support.

24 As way of background, I've been with the
25 Department of Alcoholic Beverage Control for 29 years. It's
26 been a privilege to serve the people of California, and I've had
27 many different roles with the Department of Alcoholic Beverage
28 Control. I started as an investigator in Hollywood in 1975. I

1 was a supervisor in our El Monte office, Long Beach office; was
2 a district administrator in our Fresno office; deputy division
3 chief and assistant director in both Northern and Southern
4 Division; and for period of time was on loan as Director of the
5 Office of Real Estate Appraisers as a loan executive.

6 In 2002, I was appointed Acting Director of the
7 Alcoholic Beverage Control, and on February 11th, 2004, Governor
8 Schwarzenegger appointed me as Director.

9 As Director of the Alcoholic Beverage Control, I
10 believe my primary responsibility, if confirmed, would be to
11 lead the Department in a manner consistent with Governor
12 Schwarzenegger's policies agenda, and to work closely with the
13 California Legislature on ABC-related matters. I feel strongly
14 that ABC can assist in accomplishing Governor Schwarzenegger's
15 goals of streamlining government, promoting a healthy business
16 environment in California.

17 At the same time, I think it's equally important
18 to improve the quality of life for our citizens by enforcing ABC
19 laws and licensing laws. I feel my 29 years of experience
20 working with local law enforcement, community groups, and the
21 alcohol industry would be an asset in making the ABC a
22 successful part of this administration.

23 Within the Department, we advocate problem
24 solving skills, cutting red tape, quality service to the public,
25 and empowering employees to make common sense decisions.

26 I have proposed several goals which you have in
27 your packet today to make ABC more responsive. They include
28 improvement of our information technology, better utilization of

1 our peace officer resources, pursuing federal grants, and
2 continuing our work with the California State University and
3 University of California to address the issues of binge drinking
4 and under-age drinking.

5 In closing, I'm very grateful that a diverse
6 group of organizations have come forward to support me.

7 I thank you for your time. I would like to
8 address any questions or concerns you may have at this time.

9 SENATOR JOHNSON: Senator Romero.

10 SENATOR ROMERO: Thank you for being here.

11 I applaud the work that you're doing, working
12 with others, and obtaining grants, and taking a look at
13 under-age drinking in particular with our local and state
14 universities.

15 Let me ask you, have you done anything to obtain
16 grants that might track, for example, drunk driving collisions,
17 age groups that may be under the influence of alcohol and have a
18 collision?

19 I'm especially interested also in the relation,
20 of course, between alcohol and who shows up in an emergency
21 department, in a trauma care center.

22 Is ABC doing anything, or can you do anything
23 like to help us track data to find out what truly are the costs
24 of alcohol in the State of California?

25 MR. JOLLY: Senator Romero, we have a part of all
26 our grants, we have about 6 million dollars in federal grants
27 right now. Part of those components is always trying to do a
28 research component at the end, which is funded by the grants.

1 And we work real closely with the Office of Juvenile Justice and
2 Delinquency Prevention.

3 And some of those studies have reflected that
4 there is a correlation between about 20 percent of all accidents
5 involving minors involved alcohol. And while maybe alcohol's
6 not always the reason for the accident, alcohol was involved.

7 So right now, we're looking at binge drinking on
8 the college campuses. We're looking at shoulder tap minor decoy
9 programs to vigorously enforce under-age drinking, but we
10 haven't tracked the crashes and relationship to minors being
11 served.

12 In the 1970s and '80s, we had a program that I'm
13 very interested in looking at again, where we do last drink
14 data. Where we would ask, if someone was involved in a
15 collision or drunk driving arrest, where did you have your last
16 drink? And then what we'd do is follow up and look at those
17 locations, either offering training or working enforcement.

18 SENATOR ROMERO: And I'm very interested in that,
19 but of course I'm also interested in the next step: Where do
20 you go after you've had the binge drinking? Perhaps sexually
21 assaulted, or you end up collapsing on a floor, or found dead,
22 for example, as we found just a couple days ago.

23 I'm especially interested in also kind of
24 following that track to find out who ends up in the emergency
25 room or trauma care center.

26 If at some point there would be an opportunity to
27 apply for grant monies that would sort of continue that
28 trajectory, I'd be very interested in learning about it and

1 encouraging you to move forward on helping us to track that
2 data.

3 MR. JOLLY: I appreciate that, and we're working
4 closely with Cathy Jett and the Alcohol and Drug Programs.
5 We're on their council.

6 And again, the study that was provided tracked
7 the cost of alcohol when it comes to crashes, emergency rooms,
8 and it's available for you, if you're interested.

9 SENATOR ROMERO: I would very much appreciate it.
10 Thank you.

11 MR. JOLLY: You bet.

12 SENATOR JOHNSON: Senator Knight.

13 SENATOR KNIGHT: Thank you, Mr. Chairman.

14 We had talked the other day. Did we get any of
15 the information on the tracking of the licenses that had been
16 suspended and then transfer ownership to get around the system?

17 MR. JOLLY: Senator, I'm still working on that.
18 What we want to do is see if we can get a percentage of those
19 licenses, when they have a second strike, that are transferred
20 to avoid revocations and to avoid the problems associated with
21 certain license premises selling to under-age youth.

22 We will provide that to your office within the
23 next week.

24 SENATOR KNIGHT: Thank you.

25 SENATOR JOHNSON: Senator Karnette.

26 SENATOR KARNETTE: You mentioned binge drinking.
27 Do you have anything specific -- I know you've asked for
28 grants -- to prevent binge drinking in commercial

1 establishments by college students? Do you have any programs
2 directly aimed at that?

3 MR. JOLLY: Senator Karnette, yes, we do. We're
4 kind of proud of the initiative we have with Chancellor Reed
5 with the California State Universities, as well as President
6 Atkinson with the University of California.

7 What we're doing is, we are giving money to the
8 University as well as to local law enforcement to look at those
9 licensed premises that are promoting power drinking, or
10 promoting specials where individuals binge drink -- 21 drinks on
11 your 21st birthday -- that sort of thing.

12 SENATOR KARNETTE: Also, we didn't mention this
13 earlier, but some restaurants serve extra large drinks at low
14 prices. Would that be incorporated into the study?

15 MR. JOLLY: That would be incorporated into our
16 study and also our training. We have a program where we train
17 all the licensees that are in and around the campuses. And part
18 of our training is to emphasize less alcohol, more food, and
19 feature happy hours that de-emphasize multi drinks, power
20 drinks, that are associated with alcohol poisoning as well as
21 DUIs.

22 SENATOR KARNETTE: Thank you.

23 SENATOR JOHNSON: Witnesses in support.

24 MR. SMITH: Mr. Chairman, Senators, Paul Smith
25 with the California Grocers Association. We'll just keep this
26 brief.

27 We wholeheartedly support the confirmation and
28 appointment of Jerry Jolly. Our association and the retail

1 community has not always agreed with Jerry and the things that
2 he's done, but we've always found him to be accessible to our
3 needs and concerns when he can be. He brings stability to a
4 department and a regulatory atmosphere that needs that.

5 We wholeheartedly support his confirmation.

6 SENATOR JOHNSON: Thank you.

7 Witnesses in opposition.

8 MR. DIAMOND: Good afternoon. My name is Roger
9 Diamond.

10 It pains me to come here to oppose Mr. Jolly,
11 because personally, he's a very nice guy, but he's not the right
12 person for this job. It's an enormous responsibility, and the
13 questions already have been propounded to him by you, Senators,
14 are very important because they deal with questions of life and
15 death, health matters.

16 I want you to know that your Department of
17 Alcoholic Beverage Control has become a moral crusader for
18 attacking adult cabarets not because of alcohol, but because of
19 conduct at the establishment.

20 There was one correction, by the way, in the
21 letter that I submitted to you yesterday, to your very fine
22 secretary, Ms. Sabelhaus. I indicated that one of the
23 accusations filed by Mr. Jolly's department relate to using a
24 flag pole to simulate masturbation. I'm talking about a club,
25 now. I'm talking about taxes. The Gotham Club in San
26 Bernardino pays annual California sales tax. Last year,
27 \$175,893.39. Its payroll last year, \$938,838.47. It employs
28 179 persons.

1 This is the Gotham Club in San Bernardino.
2 Wednesday night they have a ladies night where they have male
3 strippers coming in. And I'm not joking. I'm reading right
4 from the document. This is the accusation which Mr. Jolly
5 filed, his department filed, under his supervision against the
6 Gotham Club. This is the allegation.

7 On April 25, 2003, a dancer later identified as
8 Beningo went on stage dressed as a construction worker and
9 stripped down to his G-string. Beningo, who was carrying a
10 wooden baseball bat, took the baseball bat, put the bat in front
11 of his pelvic area, held it up with one hand in an upright
12 position, and moved his hand up and down the bat, simulating
13 masturbation. That's the charge.

14 Now, I have photographs here of the club; I have
15 photographs of the male strippers. These are not women who are
16 out binge drinking, getting drunk, going out and killing people.
17 They're there for a happy evening. Here are the pictures of the
18 male strippers.

19 This department wastes hundreds of millions of
20 dollars, I think -- maybe I'm exaggerating -- every year, being
21 a moral police force rather than trying to figure out how to
22 solve real problems, which are: too much drinking, death on the
23 highway, as Senator Romero pointed out. That's what you people
24 should be concerned about. That's what the ABC should be
25 concerned about.

26 But you have here -- he's formerly a cop. He
27 doesn't like this kind of entertainment, so he goes after these
28 clubs.

1 Now, what are we doing with the Angels Night
2 Club? I represent Renee Vicary, a female owner-operator of a
3 club in Corona. She has been battling the ABC for years. Why?
4 Because some of the dancers, who are independent contractors,
5 when they danced on the stage, for one second during a
6 three-minute dance, briefly touched their breasts, for one
7 second during a three-minute dance. What happens? The ABC goes
8 after them.

9 First of all, they have to send agents into the
10 location, agents who might be better off tracking down drunk
11 drivers, figuring out --

12 CHAIRMAN BURTON: Your point is, they're wasting
13 money on stuff that's whatever.

14 MR. DIAMOND: Absolutely.

15 CHAIRMAN BURTON: These independent contractors,
16 do they get workers comp benefits and things like that?

17 MR. DIAMOND: The ones who are employed --

18 CHAIRMAN BURTON: The ones that are independent
19 contractors you're talking about.

20 You mentioned some of those people are
21 independent contractors, so that way they don't get UI, workers
22 comp, or any of that stuff?

23 MR. DIAMOND: Well, it depends what club is
24 involved. Some clubs employ the dancers directly.

25 CHAIRMAN BURTON: No, I think the phrase was
26 independent contractors.

27 MR. DIAMOND: Well, the point I make, Senator,
28 was that the club doesn't have any control over some of the

1 dancers who come in, yet they suffer the consequence of the
2 breast touching. But what I was getting involved with --

3 CHAIRMAN BURTON: I know that you're getting
4 involved with it, that they waste a lot of money doing a lot of
5 stuff that may be irrelevant to public safety, one, which I
6 don't disagree with.

7 Two, you know, the way that they beat the price
8 on these dancers, at least in San Francisco in North Beach, is
9 to make them independent contractors so they have basically no
10 rights.

11 And three, I think even if you hire them as
12 independent contractors, they don't really let them go up on
13 stage and, shall we say, prance with elephants. So, that's a
14 little bit lame.

15 MR. DIAMOND: The point is this. When they're
16 dancing on the stage, I believe if during a three-minute dance
17 the dancer brushes her breast for one second, there's no reason
18 to have three or four agents at the location.

19 CHAIRMAN BURTON: We've already, or at least I
20 have stipulated, I think, that they spend a lot of money doing a
21 lot of stuff that they probably don't really have to do.

22 I represent a district in San Francisco that
23 started the topless, that's gone through this with the ABC with
24 a whole lot of different things. So, we understand that.

25 I was just saying, one, I think it's disingenuous
26 to say they hire these people as independent contractors only to
27 beat the price. They don't hire them as independent contractors
28 like Amway people do, or something.

1 MR. DIAMOND: Well, the dancers want -- it varies
2 from club to club. They're not all independent contractors.
3 There are many clubs who actually employ the dancers directly.

4 CHAIRMAN BURTON: If they're employed, it's one
5 thing. But I mean --

6 MR. DIAMOND: They pay workers compensation.

7 CHAIRMAN BURTON: I know why club owners that I
8 know hire independent contractors, but the issue is with the
9 matter of resources that are limited, with the matter of other
10 things, not that public morals aren't important to guard, but I
11 mean, that in a way drunk driving, under-age drinking, which I
12 also don't like, and them sending kids in on a sting to get some
13 place --

14 MR. DIAMOND: I would just like to respond
15 briefly.

16 CHAIRMAN BURTON: Let him respond. We know your
17 beef.

18 MR. DIAMOND: I have a point I didn't make yet.

19 MR. JOLLY: I want to clarify one issue.

20 CHAIRMAN BURTON: One more point he's got.

21 MR. DIAMOND: Thank you very much, Senator.

22 On an unrelated issue involving obedience by the
23 ABC to the Appeals Board, as you well know, in California we
24 have a three-member Appeals Board appointed by the Governor that
25 reviews decisions by the ABC.

26 I was successful recently in challenging
27 underground regulations that the ABC adopted over the years that
28 were not adopted according to the formal rules of the Government

1 Code where there can be public input and public discussion.
2 They have their own secret manual that specifies what penalties
3 are for particular violations. I challenged that underground
4 guideline manual before the Appeals Board, and I won.

5 The Appeals Board told the ABC they could not use
6 underground guidelines for penalties. And they told the ABC to
7 disregard the penalty -- penalty guidelines and proceed.

8 And I attached to my letter, which I faxed to you
9 yesterday, a copy of the Appeals Board decision.

10 In total disregard and contempt for the Appeals
11 Board decision, Mr. Jolly and the ABC reimposed the same penalty
12 of 30 days, claiming that they did it without regard to the
13 underground rules and regulations that the Appeals Board had
14 just invalidated.

15 Now, the ABC had the option of going to the Court
16 of Appeal and asking the Court of Appeal to overturn the Appeals
17 Board's decision that invalidated the underground rules and
18 regulations, but the ABC decided to be cute about this. Rather
19 than risk losing in the Court of Appeal, they simply took the
20 matter back from the Appeals Board and said, "Okay, we're going
21 to reimpose the 30 days suspension," but it's without regard
22 to the very same 30-day guideline that they originally
23 followed.

24 CHAIRMAN BURTON: We got it.

25 MR. DIAMOND: Okay.

26 CHAIRMAN BURTON: Respond.

27 MR. JOLLY: I can't comment because the matter's
28 going to be heard on April 9th. One thing I would like --

1 CHAIRMAN BURTON: Why can't you comment?

2 MR. JOLLY: On the penalty aspect of it.

3 CHAIRMAN BURTON: Well, he's saying that you did
4 something, so you comment on why you did what you did. In other
5 words, did you or did you not use the underground guidelines
6 that the Appellate Board said you shouldn't use?

7 MR. JOLLY: Senator Burton, we had guidelines
8 that we've been using for the last 20 years.

9 CHAIRMAN BURTON: Yes or no.

10 MR. JOLLY: Yes, we did use them, and yes, he did
11 prevail at the Appeals Board.

12 CHAIRMAN BURTON: But then you came back with the
13 same penalty.

14 MR. JOLLY: The penalty was the one that we felt
15 was appropriate and that's what's being heard.

16 CHAIRMAN BURTON: Under what guideline or what
17 authority did you use that?

18 MR. JOLLY: It was based upon an administrative
19 law judge who heard the matter, the District Court of Appeal who
20 heard the matter.

21 MR. DIAMOND: That's just not true.

22 CHAIRMAN BURTON: You made a finding. You gave a
23 suspension based on -- which I had actually never heard of, but
24 I guess it's good government to have guidelines and regulations
25 that nobody knows about. The appellate board said that that's
26 wrong, you can't use those guidelines.

27 MR. JOLLY: That's right.

28 CHAIRMAN BURTON: You went back, gave them the

1 same penalty under what authority?

2 MR. JOLLY: The Appeals Board said that we had to
3 review the matter.

4 CHAIRMAN BURTON: It said you couldn't use those
5 guidelines.

6 Do I speak English?

7 MR. JOLLY: I'm sorry, Senator. We based our
8 penalty based upon -- our chief counsel reviewed the matter. He
9 recommended 30 days; I adopted it.

10 CHAIRMAN BURTON: On what basis, what regulation?

11 MR. JOLLY: Based on the guidelines given to us
12 by the Appeals Board that said basically, "Review the matter;
13 come with the penalty that you think is appropriate, not based
14 on your guidelines," and we came with the same penalty.

15 CHAIRMAN BURTON: So, they said come with the
16 penalty not based on the guidelines, so you came with the same
17 penalty based on no guidelines?

18 MR. JOLLY: That's right, because we didn't have
19 the ability to have the guidelines.

20 MR. DIAMOND: To come up with the same --

21 CHAIRMAN BURTON: That's why you took it up.

22 MR. DIAMOND: But it seems to me that that shows
23 an utter disregard for appellate authority, and I think this
24 appointment is --

25 CHAIRMAN BURTON: With all due respect, we're not
26 talking about the U.S. Supreme Court.

27 MR. DIAMOND: Well, we're talking about the
28 Appeals Board that's a constitutionally created body that

1 reviews ABC decisions. And basically, the Appeals Board is
2 extremely important because any review beyond the Appeals Board
3 is discretionary with the Court of Appeal and the State Supreme
4 Court, so usually in most cases, Senator Burton, your Appeals
5 Board decision is the final decision on the case.

6 CHAIRMAN BURTON: You're back and you're up. And
7 I know for a fact that people take the Appeals Board rulings to
8 court.

9 MR. DIAMOND: No, you can do it, but it's
10 discretionary. But the point, Senator, is that the Court of
11 Appeal doesn't have to take the petition. It's discretionary.

12 CHAIRMAN BURTON: The Supreme Court doesn't have
13 to take Certiorari, but they do it.

14 MR. DIAMOND: That's right. They do it very
15 rarely.

16 But I have the case here, the Supreme Court
17 petition here. I have the pictures.

18 This is such an important appointment, I urge you
19 to delay confirmation until this matter can be further
20 investigated. You're about to rubber stamp an appointment --

21 CHAIRMAN BURTON: How are you going to
22 investigate it? In other words, if the appellate board finds
23 for you, he should be gone; if it finds for him, he should be
24 in? Is that it?

25 MR. DIAMOND: They're hearing argument April 8th
26 on --

27 CHAIRMAN BURTON: No, I'm asking the question.
28 Are you asking that his confirmation vote be

1 delayed until they rule, and if they rule in your favor, he
2 should be dumped? If they rule in his favor, he should be
3 confirmed?

4 MR. DIAMOND: Yes. It's fair. There's no
5 emergency about it.

6 CHAIRMAN BURTON: I understand that, but we
7 rarely --

8 MR. DIAMOND: But what's the rush?

9 CHAIRMAN BURTON: There's nobody going anywhere;
10 all right?

11 MR. DIAMOND: I'm just so concerned about this
12 because he --

13 CHAIRMAN BURTON: I understand that. The world's
14 going to come to an end whether he gets the job or not.

15 There is no hurry. This can put on the Floor and
16 kept there for eleven months after he was appointed.

17 I've got your point.

18 Our point more is that they waste a lot of
19 taxpayers' money.

20 Now, whether they pay attention to stuff or,
21 whatever, and I want to get into the underground guidelines.

22 I hope you don't do those any more. Do you?

23 MR. JOLLY: No. What we're doing is, we're
24 planning to put it in rule form, and we're going to go --

25 CHAIRMAN BURTON: Hearings.

26 MR. JOLLY: Public hearings, yes, sir.

27 CHAIRMAN BURTON: You used to just do it, like,
28 get together and say, "This is what we're going to do," and do

1 it?

2 MR. JOLLY: No, no. It's not a secret. Everyone
3 in the industry knows what the published guidelines we had. The
4 Appeals Board just said it should be --

5 CHAIRMAN BURTON: They knew when you put them
6 out, but they didn't know when you were deciding what you were
7 going to print.

8 MR. JOLLY: No, most everyone in the industry,
9 all the attorneys that deal with us, know what our standard
10 penalties were.

11 And a lot of state agencies have guidelines. We
12 just didn't know that they should be in rule form. Once the
13 Appeal Board said they should, we're going to put them in rule
14 form.

15 CHAIRMAN BURTON: I think the point is, and I
16 think he probably does a lot of ABC stuff, I would assume that
17 if you're making regulations that deal with taking away
18 somebody's livelihood, that they ought to be done just with
19 notice, or whatever, and then you can do whatever you want with
20 them.

21 MR. JOLLY: We agree.

22 CHAIRMAN BURTON: Senator Johnson.

23 SENATOR JOHNSON: No questions.

24 CHAIRMAN BURTON: Senator Romero.

25 SENATOR ROMERO: I've already asked them.

26 CHAIRMAN BURTON: Senator Knight.

27 SENATOR KNIGHT: No questions.

28 CHAIRMAN BURTON: Senator Karnette.

1 SENATOR KARNETTE: I've asked mine, too.

2 CHAIRMAN BURTON: Any other witnesses? Pleasure
3 of the Committee?

4 SENATOR KARNETTE: Move it.

5 CHAIRMAN BURTON: Call the roll.

6 This only means it goes to the Floor.

7 MR. DIAMOND: Thank you, Senator Burton.

8 Thank you very much for your time.

9 SECRETARY WEBB: Senator Karnette.

10 SENATOR KARNETTE: Aye.

11 SECRETARY WEBB: Karnette Aye. Senator Knight.

12 SENATOR KNIGHT: Aye.

13 SECRETARY WEBB: Knight Aye. Senator Romero.

14 SENATOR ROMERO: Aye.

15 SECRETARY WEBB: Romero Aye. Senator Johnson.

16 SENATOR JOHNSON: Aye.

17 SECRETARY WEBB: Johnson Aye. Senator Burton.

18 CHAIRMAN BURTON: Aye.

19 SECRETARY WEBB: Burton Aye. Five to zero.

20 CHAIRMAN BURTON: I would like to have you come
21 back with a better process on how to do stuff.

22 MR. JOLLY: Yes, sir.

23 CHAIRMAN BURTON: You are dealing with people's
24 livelihood. And if they do something wrong, they ought to know
25 in advance they're doing it wrong. And if they do it wrong,
26 they could go any way from a slap on the wrist, to suspension,
27 to revocation.

28 MR. JOLLY: We agree.

1 CHAIRMAN BURTON: Thank you.

2 Thank you, Roger.

3 MR. DIAMOND: Thank you, Senators.

4 MR. McCAFFERY: Mr. Chair, Members of the Rules
5 Committee, I appreciate the opportunity to appear before you
6 today.

7 CHAIRMAN BURTON: And you are?

8 MR. McCAFFERY: My name is Tom McCaffery.
9 Governor Schwarzenegger has appointed me as Chief Deputy
10 Director of the Department of Health Services.

11 This appointment returns -- marks my return to
12 public service. From 1991 to 1998, I had the privilege of
13 working in California state government, first in the Governor's
14 Washington, D.C. office, and then at what was known as the
15 Health and Welfare Agency. In both assignments I had extensive
16 experience and working knowledge of both federal and state
17 health and human services area and policy arena issues.

18 While at the Health and Welfare Agency, I spent a
19 good deal of time on health issues in general, and specifically
20 with the Department of Health Services activities and programs.

21 I believe this past experience, particularly
22 working with the Department of Health Services, has assisted me
23 to date in my position and hopefully will continue to assist me
24 as I work with our newly appointed Director in the task of
25 managing what is a very large and complex organization.

26 When the Governor's team approached me and
27 inquired as to my interest in returning to public service and
28 joining the administration, I did not hesitate to come back into

1 California state government basically for two reasons. One, I
2 have a high regard for and commitment to government service and
3 the public policy process, and I had missed playing a direct
4 role in the policy arena, and believe those that have a genuine
5 interest in the policy process should do all they can to
6 participate in it when given the chance.

7 Secondly, and frankly, I didn't want to pass up
8 an opportunity which I think will be very unique in terms of
9 public service in the coming years. The combination of our
10 unique fiscal challenges in this state, coupled with a governor
11 who is very open to challenging the status quo I believe will
12 make the coming years a very exciting time to be part of state
13 government once again.

14 In short, my prior government experience, my
15 willingness to be accessible to all stakeholders that are
16 involved in the policy process, and my genuine enthusiasm for
17 public service I believe will help me make a contribution to
18 state government in the coming years. It's a contribution I
19 very much want to make.

20 I thank you for your consideration, and will do
21 my best to answer any of your questions.

22 CHAIRMAN BURTON: Do you have any family with you
23 today?

24 MR. McCAFFERY: I do. I have my wife, Sydney
25 Young in the back, and I also have my new boss, the newly
26 appointed Director of the Department of Health Services, Sandra
27 Shewry.

28 CHAIRMAN BURTON: So, you're related to your new

1 boss?

2 MR. McCAFFERY: No, that was in addition to my
3 family.

4 CHAIRMAN BURTON: Witnesses in support, briefly.

5 MR. POMER: Chairman Burton, Bruce Pomer, Health
6 Officers Association, in strong support of an outstanding
7 professional, Tom McCaffery, who we've had an excellent working
8 relationship with.

9 Thank you.

10 MR. THOMPSON: Steve Thompson with the
11 California Medical Association.

12 Tom, both as a public servant and as an official
13 with the Catholic Health Care Alliance, had a reputation for
14 honesty, integrity, and good values. And he's a good Irish
15 Catholic kid, Modesto. His high school beat St. Ignatious in
16 the Regional Finals this year.

17 MS. SENDERLING: Thank you Mr. Chair and
18 Members. Cathy Senderling for the County Welfare Directors
19 Association.

20 We're very much in support of Mr. McCaffery's
21 appointment and look forward to working with him.

22 Thank you.

23 MS. REIGEL: Judith Reigel, County Health
24 Executives Association.

25 We strongly support Mr. McCaffery's appointment.
26 In his short time at the Department, we've worked really closely
27 with him, and he's really shown a great leadership in really
28 improving the state-county relationship.

1 CHAIRMAN BURTON: Witnesses in opposition?

2 Move the nomination.

3 SECRETARY WEBB: Senator Karnette.

4 SENATOR KARNETTE: Aye.

5 SECRETARY WEBB: Karnette Aye. Senator Knight.

6 SENATOR KNIGHT: Aye.

7 SECRETARY WEBB: Knight Aye. Senator Romero.

8 Senator Johnson.

9 SENATOR JOHNSON: Aye.

10 SECRETARY WEBB: Johnson Aye. Senator Burton.

11 CHAIRMAN BURTON: Aye.

12 SECRETARY WEBB: Burton Aye. Four to zero.

13 CHAIRMAN BURTON: Congratulations.

14 MR. McCAFFERY: Thank you.

15 CHAIRMAN BURTON: Peter Silva.

16 Senator Ducheny.

17 SENATOR DUCHENY: Thank you very much,

18 Mr. Chairman and Members, just for this opportunity to
19 reintroduce you to Pete Silva, who has been serving on the State
20 Water Resources Control Board for the last four years as Vice
21 Chairman. So, he's been before this Committee in the past.

22 I only came because he has been someone that
23 we've known for a very long time in a variety of his experience
24 as water quality and waste water expert and engineer with local
25 regional board in San Diego, with City of San Diego Water and
26 Waste Water Departments.

27 One unique quality or experience that he's had
28 that I think is important to continue to have on this board is

1 with binational issues. He worked with the International
2 Boundary and Water Commission, and for a period before coming to
3 California as our water board commissioner, was the U.S. Manager
4 for the Boarder Environmental Cooperation Commission in Ciudad
5 Juarez.

6 He has worked with all of those issues, has been
7 instrumental in developing important water and waste water
8 treatment facilities all along the border area, and particularly
9 in California has been, I think, a good addition to this board.

10 And I just encourage you to continue to support
11 his reappointment.

12 MR. SILVA: Thank you.

13 Good afternoon, Senator Burton, Members of the
14 Committee. My name is Peter Silva.

15 It's an honor and a pleasure to be here before
16 you to request your confirmation of my reappointment. As the
17 Senator said, I've already served one term on the Board as Vice
18 Chair.

19 Very briefly, to give you the highlights, I
20 think, of the priorities that the Board should undertake to
21 ensure water quality in the state, three broad areas. First of
22 all, in management and budget, which is critical right now, I
23 think first of all we have to look at becoming more efficient in
24 our relationship with our regional boards.

25 Number two, we need to get that bond money out,
26 somehow increase our staffing to be able to do that.

27 Finally, also in water rights area, we have to
28 become more efficient in getting decisions out that affect water

1 rights.

2 The second broad category is in our water quality
3 regulation side. I know we've had -- we have a number of very
4 controversial issues. First of all, the storm water program
5 that's been operated by our regional boards is very important in
6 reducing ocean pollution, but has become very controversial,
7 especially in the urban areas.

8 The TMDL program has to become -- continue to be
9 a priority. We are getting better at it, and I think we're
10 going to make very significant progress in next coming years.

11 Regulation of timber and ag., we're just
12 starting. We're in the waiver process, as you may know. And in
13 timber especially we're looking at specific waste discharge
14 requirements as needed.

15 And finally, a very recent issue that's come up
16 statewide is the issue of perchlorate contamination of
17 groundwater. We're treating it on a site-by-site basis as it
18 comes up at our regional boards, but I think ultimately we need
19 to come up with a statewide policy, and especially find funding
20 to address it.

21 Finally, just two personal priorities. One, as
22 the Senator mentioned, I do want to make sure the State Board
23 continues working on border issues to solve contamination
24 problems along our border with Mexico, and also environmental
25 justice needs to be part of everything we do at the State Board.

26 So, that's sort of my top ten list, and I'd be
27 happy to answer any questions you might have.

28 CHAIRMAN BURTON: Do you have any family with

1 you?

2 MR. SILVA: No, I do not, Senator.

3 CHAIRMAN BURTON: What's the State Board going to
4 do to support the regional boards consistent with implementation
5 of SB 810?

6 MR. SILVA: We've supported very much the waiver
7 process. As a matter of fact, we had a hearing where we
8 supported their waiver process in Region One.

9 In talking to their Executive Officer, they're
10 very excited about the fact that SB 810 does give them a very
11 good hammer to hold over the THP process.

12 CHAIRMAN BURTON: You're going to be
13 supportive?

14 MR. SILVA: Oh, yes, very much so.

15 CHAIRMAN BURTON: Do you have any plans yet how
16 to implement the appellate decision that the boards do have the
17 independent authority to deal with the Forest Practices Act as
18 it affects --

19 MR. SILVA: Yes.

20 CHAIRMAN BURTON: -- affects the watersheds.

21 MR. SILVA: There are two things. One, as an
22 example, in Region One they're addressing -- they're already
23 doing waste discharge requirements on a watershed basis to
24 address cumulative impacts of discharges, especially sediments.
25 So, that's one way we're addressing it.

26 CHAIRMAN BURTON: Why are they so slow getting
27 the bond money out, local assistance bonds?

28 MR. SILVA: I think we have two -- two major

1 issues. One, as I mentioned, just in the budget. We've been
2 reduced quite a bit, as you know, like everybody else. We're
3 down 31 percent in our bond program in staffing.

4 Also, the recent trader bills have sort of
5 stepped -- we took a step back basically to incorporate
6 requirements like having stakeholder participation and also
7 having --

8 CHAIRMAN BURTON: You have less than 8 percent of
9 those going out.

10 MR. SILVA: Right, but that's inclusive of all
11 those. We have done a good job, as you know, on Prop. 13.

12 CHAIRMAN BURTON: There's 67 million
13 appropriated.

14 Let me ask you a question. Under bond money, can
15 those proceeds also be used to at least do temporary hires to
16 get the bond money out if it's consistent with the bond act?
17 Maybe you don't know, but you ought to ask your counsel.

18 I know that with certain bonds, stuff like if
19 it's for a building, you can hire architects, you can hire
20 engineers.

21 It may or may not make sense to have some
22 temporary hires of people to get money out, because people
23 passed a big bond issue, and if the money's sitting there, the
24 needs that they voted on go unmet. There's going to be trouble
25 going back to them again.

26 MR. SILVA: We can look at that.

27 CHAIRMAN BURTON: Senator Knight.

28 SENATOR KNIGHT: Thank you, Mr. Chairman.

1 The other day when we talked about the issues, we
2 were more concerned about implementation of the storm water
3 regulations.

4 What actions has the Board taken to address the
5 differing applications or enforcement of these regulations by
6 the Regional Water Quality Control Boards?

7 MR. SILVA: As a matter of fact, we've heard a
8 lot of concern about that, and we've set up a task force now of
9 the stakeholders to look at -- to come up with a statewide --

10 SENATOR KNIGHT: Is the task force established
11 now?

12 MR. SILVA: No, we've identified the members.
13 They've not met yet, but the idea is that they would -- we can
14 then provide a guidance document from the State Board to the
15 regional boards.

16 SENATOR KNIGHT: When do you expect this task
17 force to meet?

18 MR. SILVA: Well, we're hoping probably the next
19 few months. And then we hopefully get something out at the end
20 of this year or early next year.

21 SENATOR KNIGHT: I would hope those regulations
22 will be based on good scientific data.

23 MR. SILVA: Well, believe me, we've been -- as a
24 matter of fact, one of the problems we have is that the
25 environmentalists always want the different scientists than the
26 regulators do -- regulator community does. So, that's part of
27 our problem.

28 SENATOR KNIGHT: I understand.

1 CHAIRMAN BURTON: Senator Karnette.

2 SENATOR KARNETTE: I was real happy to see that
3 you're concerned about the water runoff. Even though I don't
4 live in the north, I care about those forests, and why they
5 don't take into consideration the watershed. And I'm really
6 glad to see you're working on that, and you're going to have
7 some clout, I hope?

8 MR. SILVA: Oh, yes.

9 SENATOR KARNETTE: The other thing in my
10 district, the TMDLs, as you know. There are some cities in my
11 area that are very concerned about that, and they don't like
12 what the regional boards do.

13 What actually happens when somebody disagrees
14 with the regional board? Then they go to the State Board, and
15 then what happens?

16 MR. SILVA: Well, actually all TMDLs have to be
17 approved first by a regional board, then by the State Board, and
18 then by EPA. So there's like two other almost appellate bodies
19 that are for TMDLs.

20 So, they do have a couple of ways they can pose
21 their opposition.

22 SENATOR KARNETTE: So, if they oppose it at the
23 region, then it does go to you?

24 MR. SILVA: Yes, it does.

25 SENATOR KARNETTE: You can make a decision, but
26 can you actually override the region?

27 MR. SILVA: Yes, we can. And we can send it back
28 to the regional board for changes.

1 I can tell you, the first few TMDLs were very
2 controversial and problematic. It's gotten to the point now
3 where we have them on consent calendar, quite frankly, most of
4 them. So, we've become much better at it than we did -- we were
5 at it initially.

6 SENATOR KARNETTE: Those cities get so upset.
7 They really worry.

8 Thank you.

9 MR. SILVA: Thank you.

10 CHAIRMAN BURTON: Witnesses in support.

11 MR. FALASCO: Just very briefly, Mr. Chair and
12 Committee Members. Mike Falasco, Wine Institute.

13 We found Mr. Silva to be very fair to
14 agriculture. We have a lot of issues: storm water, winery
15 process water. So, we think he's a good man for you guys to
16 confirm.

17 SENATOR KNIGHT: Mr. Chairman, one follow-up.
18 Have you got somebody identified from the
19 military to serve on this task force?

20 MR. SILVA: No, but I know we've requested -- I
21 know the Navy's very interested, and I know the Air Force is
22 very interested.

23 CHAIRMAN BURTON: Actually, I think that Senator
24 Johannessen --

25 [Laughter.]

26 SENATOR KNIGHT: What service does he represent?

27 CHAIRMAN BURTON: Combat vet, Korea. Got shot
28 at, shot back.

1 Do you mean people that are representing military
2 staff?

3 SENATOR KNIGHT: For example, the Navy in San
4 Diego's got a considerable input.

5 CHAIRMAN BURTON: Okay, point well taken.

6 Witnesses in opposition?

7 Hearing none, move the nomination.

8 All Members, unless there's objection, will be
9 recorded Aye.

10 Congratulations.

11 [Thereupon the final vote
12 was 5-0 in favor of the
13 confirmation.]

14 [Thereupon this portion of the
15 Senate Rules Committee hearing
16 was terminated at approximately
17 2:20 P.M.]

18 --ooOoo--
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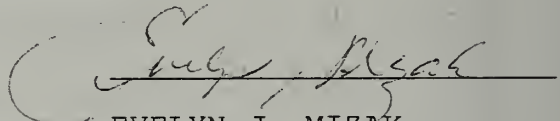
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 1st day of April, 2004.


EVELYN J. MIZAK
Shorthand Reporter

1. Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as Deputy Secretary?

As Deputy Secretary for Program and Fiscal Affairs within the Health and Human Services Agency, I have several programmatic and administrative priorities.

First, one of my top priorities is to improve both the internal and external working relationship of the Agency, including its departments and board. I believe the success of our efforts, especially during these fiscally challenging times, will be predicated on our ability to work collaboratively and to communicate effectively. Internally, we must work as a team across departmental lines to improve program management and service delivery. Externally, I believe it is imperative that this Agency fully engage in the public process as our decisions affect the health and well being of all Californians. I am excited the Agency is already taking positive steps to improve cooperation. Broad based stakeholder groups are now informing the multitude of programmatic reforms under development. Communication with the Legislature and control agencies is improving and interdepartmental collaboration is underway. As Deputy Secretary, my goal is to sustain and improve these collaborations and to insure the Agency is responsive, effective, and operating efficiently.

Second, with declining resources and the increasing demands for services, I place a high priority on working with departments to conduct a thorough review of programs within the Health and Human Services Agency. During the last few years, many departments have chosen to apply their respective budget cuts to all programs across the board. As these cuts deepened, many programs became less and less effective. I believe we must reassess our priorities to insure maximum use of our limited resources. We must maintain essential services for those most in need while reforming programs to operate more effectively and cost efficiently. We must also look at each program and assess its relationship to the core purposes of Agency and its departments. The State cannot afford to continue reducing the quality of our core functions in order to minimally fund, important, but potentially less essential efforts. It also cannot afford to commit ongoing resources to duplicative functions in government.

Third, I intend to work with the departments to maximize delivery of quality client-based services. Not unlike many other public servants, I have personally participated in several of the health and human services programs. I was a teen mother and for a short time on welfare, receiving food stamps, and covered by Medi-Cal. I provided respite care for the developmentally disabled and served as a foster parent for a trouble youth. I know first hand the importance of these essential services and will bring my experiences to help inform good public policy decisions.

2. How are you participating in the governor's proposed review of state governmental organization? The Little Hoover Commission and Senator Ortiz have proposed creating a new administrative entity to address public health issues because the dominance of Medi-Cal within DHS and the dispersal of public health responsibilities through several departments reduces the effectiveness of public health efforts. Can you comment on this concept?

The California Performance Review (CPR) provides a unique opportunity for the State to reexamine all facets of government to insure efficient and effective operations. As a senior manager at the Health and Human Services Agency, I am actively involved in making recommendations for improved program performance and service delivery. I have been working with the Agency's departments to identify: exemplary programs; areas in need of reform or improved performance; outcome indicators to measure success; and recommendations for more effective reporting requirements. This information has been shared with the CPR team. During the government wide review process, the functions of each department within our Agency, including the Department of Health Services, will be examined. The concept of creating a separate public health department as advanced by the Little Hoover Commission and Senator Ortiz, will no doubt be considered. I believe the California Performance Review process provides a mechanism to evaluate such proposals and hope that all interested stakeholders share their recommendations with the CPR team to insure a comprehensive in-depth analysis.

3. Most analysts anticipate substantial reductions in funding for health programs over the next several years. If funding reductions do prove necessary what process will you use to determine funding priorities?

As mentioned above, I place a high priority on working with the departments to conduct a complete review of program activities to carefully consider their relationship to our overall mission and goals. With limited resources, I recommend that we prioritize our efforts instead of continuing the practice of funding all programs at levels where none can operate effectively. Several core principles should guide our review: maintaining essential services for those most in need; prioritizing services to children; encouraging self sufficiency; improving service delivery including consideration of whether the services could be delivered more effectively by another entity, deleting duplication and enhancing program accountability and effectiveness.

4. The Administration proposes enrollment caps in several health and human services programs. When will additional details be available about how the caps would work so we can better evaluate proposed changes? With respect to the Healthy Families Program, for example, we have received no detail regarding the actual process that will be used to move from the program waiting list to receipt of services.

Given the severity of the State's current fiscal conditions and the Administration's desire to not reduce eligibility, the budget proposes to implement temporary enrollment caps on some programs within the Agency. Many of these programs have grown significantly during recent years, due both to increased demand and program expansions. For example, since its inception in 1998, the Healthy Families Program has grown to provide coverage to almost 700,000 children with expanded eligibility to families with incomes up to 250% of poverty, while most states don't go beyond 200%. The cap proposals, while difficult to recommend, reflect the state's dire fiscal situation and are intended to stabilize program growth and contain costs without cutting eligibility. For most capped programs, the establishment of a waiting list that enrolls applicants on a first come, first serve priority appears to be the least subjective and most cost efficient. However, the Agency is currently working with the affected departments to develop suggested implementation plans and update cost assumptions for consideration by the Legislature during the May revision process.

5. Is the Agency playing a role in coordinating the services its various departments provide related to long-term care?

Yes, the Agency will remain actively involved in the oversight of long term care issues and will resume meetings next month of the Long Term Care Council. This Council, chaired by the Agency Secretary, includes the directors of Health and Human Services Agency departments with long term care related programs and directors from the departments of Housing and Community Development, Consumer Affairs, Transportation, and Veterans Affairs. An interdepartmental staff level workgroup has already met to plan for ongoing Council activities. At the upcoming meeting, Agency intends to re-engage the Council in critical long term care issues, including implementation of the Olmstead plan and work with the Council to maximize its ability to coordinate departmental efforts.

In addition, it is my understanding that the Bureau of State Audits is finalizing a report on long term care programs in state government. Agency will carefully review the State Auditor's recommendations, with the Council, once the report is released.

6. The *Olmstead* decision holds that a public entity is required to administer programs "in the most integrated setting appropriate to the needs of qualified individuals with disabilities" Under this ruling persons with disabilities must be placed in the least restrictive setting. What role can you play in moving toward the goal of placement in the community while assuring that residents are protected through appropriate licensing? Please provide us with an update on implementation of *Olmstead* and tell us how your various departments are working together towards this goal.

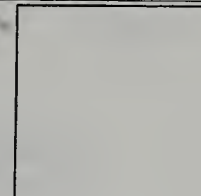
The Health and Human Services Agency fully supports the principles underlying the *Olmstead* decision and is committed to making the changes necessary to ensure that persons with disabilities have appropriate access to community based services and placement options.

The Agency has directed departments to continue implementation of the California *Olmstead* Plan released in May 2003. Since development of the plan last May, four Agency departments submitted grant applications to the Federal Centers for Medicare and Medicaid Services for funding to implement the *Olmstead* decision. To date, the Departments of Health Services, Developmental Services and Mental Health have been awarded funding. The Department of Aging's application is still under review. In addition, Agency staff met with the staff of the Agency's Long Term Care Council to discuss progress toward implementation of the *Olmstead* Plan. As previously mentioned, the Council will convene soon to review departmental efforts to comply with *Olmstead*. At this meeting, Agency will ask the Council to consider three critical issues: (i) the success of the existing efforts Agency-wide to implement the Plan; (ii) the steps needed to complete implementation of the Plan, and (iii) additional actions that were not part of the Plan but may be required to fully comply with the *Olmstead* decision. To the extent that existing implementation efforts have stalled, the Council will determine the reasons and work with the departments to ensure completion of the work that has been started. In light of those results, the Council will identify the actions we must undertake to finalize implementation and develop a process for reaching that goal.

In my role as Deputy Secretary, I will work closely with the Council and the departments to implement the plan and to identify other actions we can take to insure full compliance with the *Olmstead* decision. In addition, I will ask the Council to carefully review the relevant licensing programs and statutes to ensure residents are protected.

DEPARTMENT OF ALCOHOLIC BEVERAGE CONTROL

927 Lennane Drive, Suite 100
Sacramento, CA 95834
(916) 419-2510



March 23, 2004

The Honorable John L. Burton, Chairman
Senate Rules Committee
State Capitol
Room 420
Sacramento, CA 95814-4900

Dear Senator Burton:

On March 31, 2004, I am scheduled to appear before the Senate Rules Committee on my confirmation as Director of the Department of Alcoholic Beverage Control. As Chair of the Senate Rules Committee you have requested an outline of my short and long term goals for the Department. I appreciate this opportunity to testify before the Senate Rules Committee and to discuss my vision and goals for the Department.

As Director of the Department of Alcoholic Beverage Control, I believe my primary responsibility is to lead the Department in a manner consistent with Governor Schwarzenegger's policy agenda and to work closely with the California Legislature on ABC related matters. I feel strongly that ABC can assist in accomplishing Governor Schwarzenegger's goals of streamlining government and promoting a healthy business environment in California. At the same time, I think it is equally important to improve the quality of life for our citizens by enforcing ABC laws. I feel my 29 years of experience working with local law enforcement, community groups, and the alcohol industry would be an asset in making ABC a successful part of this Administration.

The following is a list of short and long term goals that I have proposed to make ABC more responsive to the citizens it serves and to accomplish our agenda of streamlining government and offering a high level of service to the public:

- Economic Recovery

The Department can have a significant positive impact on California's economy. ABC licensees comprise seven percent of all businesses in the state, employ thousands of residents, and generate over \$500 million in excise and sales tax. Businesses licensed by ABC are key elements of California's economy and include resorts, hotels, major

tourist destinations, grocery stores, restaurants, small businesses, and our renowned wine industry.

It is critical the Department develops new policies and procedures to assist in the State's economic recovery. These changes include the following:

- Create a special process for mass transfers of multiple outlet licenses by establishing one central ABC control point to fast track these applications.
- Eliminate unnecessary and redundant forms in the licensing process.
- Institute procedures to streamline and expedite issuance of catering permits and special daily licenses.
- Train and empower all employees to make common sense decisions at the lowest level resulting in less red tape and getting results to our customers.

- Information Technology

The Department is presently expanding its use of information technology to improve service levels. The Department recently completed a feasibility study report (FSR) to assess the Department's information technology needs. The FSR identified two major components that need to be addressed: 1) Replacement of the current hardware infrastructure, which the Department is currently doing; and 2) Replacement of the nine year old California Alcoholic Beverage Information Network (CABIN) licensing and case management system. Funding for the CABIN replacement is included in the Governor's proposed 2004/05 budget. Once fully implemented, the Department anticipates: reducing application processing time and customer wait time; eliminating duplicative processes; and providing self service customer support and services including accepting credit card payment over the web and possibly on-line application submission.

- Better Utilization of Peace Officer Resources

The Department proposes re-classifying an additional 27 investigator positions to the Licensing Representative series.

The Department established the non-sworn Licensing Representative class in 1992. Initially, the classification was established to provide workload relief for incumbents in peace officer classes by conducting investigations of the least complex license applications. The new class also achieved savings in retirement, training and equipment costs over comparable costs for sworn investigative staff.

Once fully implemented, the Department could achieve a savings of approximately \$230K annually. These savings would accrue because of salary savings, reduced retirement contributions (peace officer retirement), and reduced training/peace officer equipment costs.

- Pursuing and acquiring grants to supplement Department's enforcement efforts

In the last two years, the Department has obtained approximately \$6 million in Federal grants to assist in its enforcement efforts. It is critical the Department continues to be aggressive in obtaining its fair share of Federal grants to continue prevention, education and enforcement efforts. Presently the Department has developed partnerships with the University of California and California State University systems to address the problems of underage and binge drinking. In addition, grants have assisted the Department in funding its information technology efforts, and has enabled additional monies to be made available to local law enforcement programs.

- Summary

In the next few years ABC will be faced with many challenges related to fiscal restraints. There will be limited resources both at the local and state level. During this time, I anticipate our major accomplishments will include:

- Completion our Information Technology Project resulting in significant improvement in services.
- Completion our Alcohol Issues Partnership Program with California State University relating to binge and underage drinking.
- Development of strong partnerships with local law enforcement agencies through ABC grant program (GAP).
- Continued support of meaningful enforcement programs through federally funded grants.

Thank you again for this opportunity to share my vision and goals for the ABC.

Sincerely,

Jerry R. Jolly
Director

DATE: MARCH 17, 2004

TO: SENATE RULES COMMITTEE

**FROM: TOM McCAFFERY, NOMINEE FOR CHIEF DEPUTY
DIRECTOR OF THE DEPARTMENT OF HEALTH SERVICES**

**SUBJECT: RESPONSES TO QUESTIONS OUTLINED IN
LETTER OF MARCH 12, 2004**

- 1. Please provide us with a brief statement of your goals. What do you hope to accomplish during your tenure as Chief Deputy Director?**

During this time in which California faces a great fiscal challenge, those in government have an opportunity and a responsibility to question old assumptions and to be willing to change public programs in a way that better serves all of our residents.

One of my primary policy goals will be successful implementation of Governor Schwarzenegger's proposal to fundamentally restructure the Medi-Cal program. The Medi-Cal program provides needed health services to 6.8 million of California's most vulnerable residents – over 15 percent of the State's population. As such, the program is a key component in California's overall health care delivery system. However, Medi-Cal is an expensive program that is projected to cost over \$31 billion in state and federal funds in 2004-05. The program's General Fund expenditures have grown 41 percent over the past five years, making it one of the central cost-drivers of the overall state budget. Clearly, the status quo cannot continue.

Rather than continue the ongoing trend of attempting to restrain program costs by simply reducing program eligibility and broadly eliminating benefits, the Administration seeks federal approval to fundamentally reform the program. Our goal is to restructure Medi-Cal such that those currently eligible will maintain eligibility for core health services while at the same time implementing cost control mechanisms and delivery system reforms that keep it fiscally healthy for the long-term. This is an ambitious proposal that will require DHS and the Administration to work closely with the legislature and all the stakeholders who will be impacted by any major program overhaul.

Another policy/programmatic goal is to work with the Department's public health leadership and local public health leaders to continue to assess the State's readiness to respond to a bioterrorism event. Working with the federal government, California has made a number of new investments in both its statewide public health capacity and its local public health infrastructure (see

response to Question 4). DHS, together with our local health partners, needs to continue to assess the outcomes that have been achieved as a result of these investments and to identify any remaining deficiencies that require additional attention.

Another goal – one that is both organizational and policy-related in nature – will be to ensure that DHS takes steps to prioritize its myriad functions and focus on its core activities. Such an effort should be pursued not simply to cut costs, but also to improve upon the way DHS performs its most critical functions. The State's fiscal crisis demands that the Department examine how it is structured to carry out its activities and the way in which its financial and staff resources are deployed to meet the needs of the public.

Finally, an immediate organizational goal of mine will be to work with the Department's executive management team to successfully manage the organizational transition that takes place anytime a Department acquires a new Director. It is critical that the Department's key day-to-day operations not be disrupted, even while it is experiencing fundamental change in its executive leadership.

2. How are you participating in the Governor's proposed review of government organization?

I am working with members of the DHS executive management team to ensure that the Department facilitates information exchange between our programs and the California Performance Review (CPR). This information exchange includes not only budget-related and program data, but also the insight and personal perspective of experienced program staff. In addition, I will be providing direct input and feedback to the CPR's Health and Human Services Team on issues related both to DHS and, drawing upon my prior service with what was then known as the Health and Welfare Agency, to broader health and human services issues. Eventually, I anticipate providing leadership, along with the Department director, in coordinating more formal Department-wide input on CPR concepts and in making recommendations on DHS-specific goals for performance improvements.

3. Most analysts anticipate substantial reductions in funding for health programs over the next several years. If funding reductions prove necessary, what process will DHS use to determine funding priorities?

I anticipate that General Fund resources will continue to be greatly constrained over the next several years. As with all other state agencies, DHS may have to reduce funds for programs and services. The first step in determining funding priorities is to identify the Department's core programs and services. These would be programs and services on which the public depends most – be it

access to health care services for the most vulnerable; core public health activities that ensure Californians have safe food and water; prevention services that limit negative health outcomes; public health infrastructure that can respond to infectious diseases, including those intentionally spread for terrorist purposes; or regulatory efforts that protect the health and safety of patients.

Once these priorities have been outlined, DHS will need to identify all existing sources of funding – General Fund, federal funds, special funds – that can appropriately be used to meet the resource needs of these core programs and activities. Part of this funding review must include efforts to identify new funding for the State, including new sources of federal funding. Finally, if there remain insufficient funds to support all DHS activities, the first priority should be given to those activities that provide direct health care services to individuals or protect health and safety. The Department would need to identify other activities that could be temporarily postponed or eliminated and redirect their resources to meet the funding needs of the higher priority activities.

4. In your view, what is the role of DHS in preparing California for potential bioterrorism threats? How does this role interact with local health jurisdictions?

DHS must play a leadership role in ensuring the full integration of core public health functions – disease surveillance and epidemiological investigative capacity, laboratory diagnostic expertise, health risk communication, and prevention and education – into California’s overall homeland security planning. DHS is building on the collaborative relationship that it has developed with other “first responders” such as law enforcement, fire, and emergency medical services to ensure that public health is a key component of California’s emergency response capacity. DHS must work closely with local health officers to support their role of “first responder” for biologic, chemical, or radiologic terrorism and promote their efforts to partner with their fellow local “first responders.”

In carrying out its role, DHS is taking the necessary steps to ensure that California’s basic public health infrastructure has the capacity to prepare for and respond to the full range of infectious disease outbreaks and other public health emergencies, be they manmade or natural disasters. In order for California to maintain a sound statewide public health infrastructure, DHS must work in partnership with the local health jurisdictions to ensure that there is sufficient local public health capacity. There can be no statewide system unless there is sufficient local infrastructure. In the event of a public health emergency, the local health jurisdiction will act as first responder. This situation underscores the need for DHS to work collaboratively with local health jurisdictions in planning and implementation activities.

In administering the federal Centers for Disease Control (CDC) bioterrorism grant program, DHS and the local health jurisdictions have invested in key components

of California's public health infrastructure to enhance areas that have required additional capacity building. These components include:

- Increased development of both centralized state lab capacity and new regional public health labs to identify, detect, and confirm the presence of biologic or chemical terrorism agents;
- Implementation of the California Electronic Laboratory Disease Alert and Reporting System to ensure standardized and rapid reporting to a centralized lab system that helps health professionals, hospitals, clinics, and local public health leaders medically respond to a bioterrorism event; and
- Establishment of a statewide California Health Alert Network that allows for immediate contact of all local health jurisdictions in the event of a bioterrorism activity or other public health emergency.

A critical aspect of DHS' bioterrorism role is to ensure that our local public health partners have the necessary staffing and assets to plan for and respond to bioterrorism events. In implementing the CDC grant's \$132 million over the past two years, DHS has allocated over 70 percent of the federal funding to local health jurisdictions. This infusion of resources has permitted local health jurisdictions to, among other things, hire over 300 public health workers that can be utilized for preparedness for and response to bioterrorism events and other public health emergencies. As mentioned previously, federal funding also has been utilized to implement real-time communication networks that allow for rapid and uniform communication between DHS and local health jurisdictions. This system is now being expanded at the local level to include hospitals, clinics, health care providers, law enforcement, fire, emergency medical services, and other "first responders."

DHS also has developed statewide specialized staff expertise and technological capacity that can be deployed to the local level in those circumstances where the local jurisdiction's resources are limited, where the local jurisdiction asks for help, and/or in the event the public health emergency crosses jurisdictions and becomes a regional issue. DHS has developed "strike teams" dealing with infectious diseases, radiologic events, or environmental incidents that can assist local jurisdictions in responding to public health emergencies.

In December, the State's efforts were recognized by the Trust For America's Health in a report on the nation's preparedness for bioterrorism. The report gave California and three other states the top scores.

5. How can California best mitigate the potential threats of new infectious diseases such as West Nile Virus, SARS, and others?

First, we must continue the recent investment in the State's public health infrastructure which allows the State to prepare for and to effectively respond to

the threat of new infectious diseases (see response to Question 4). Our public health infrastructure must have the capacity to identify and investigate the presence of an infectious disease and then rapidly communicate relevant information to affected local jurisdictions to prevent the spread of the disease. The improvements that have been made in the past two years to increase public health capacity to prepare for bioterrorism, serve an additional purpose of preparing California to respond to outbreaks of new infectious diseases or other public health threats we may face.

Second, we must anticipate the next emerging disease or changes in existing diseases that create new threats and examine the implications for public health. Doing so requires the State to invest in applied research and planning capabilities. For example, DHS – in concert with local health leaders – has developed a response plan that outlines what the State should do in the event that current flu strains change and result in a worldwide influenza outbreak. This plan identifies key preparation and response activities including early surveillance and testing mechanisms, staged response steps based on surveillance data, government actions to minimize exposure, and communication with health care professionals and the public. Finally, in our effort to stay one step ahead of emerging diseases, the State must continue to enhance its diagnostic laboratory capacity, support projects that seek to identify new disease strains, and systematically search for the causes of unknown disease-related illnesses and deaths.

6. What is the role of DHS in protecting the public's health from food contamination? At what level of danger should the public be notified of potential food contamination risks?

Under California statute, DHS has primary responsibility for enforcing prohibitions against the manufacture, sale, or offering of contaminated or misbranded foods. In short, DHS is tasked with ensuring that California's food supply is safe. As such, DHS has the authority to inspect food-processing facilities, collect product samples and other evidence, and to take appropriate actions to ensure compliance with state and federal food safety laws. Such actions can include embargoes of unsafe food, implementation of voluntary food recalls (with cooperating manufacturers), and restraining orders (against non-cooperating manufacturers) to remove unsafe food from sale.

A key component of DHS' role in ensuring food safety is notification to the public when unsafe food is present and the education of consumers regarding the health risks of specific food products. The practice of DHS has been, and should continue to be, to communicate to the public when there is any level of health risk associated with a food product. The nature of this public notification is contingent upon the specific situation and its urgency.

7. In December of 2003 the State Auditor criticized the Department of Health Services anti-fraud efforts for failing to evaluate the extent of fraud within Medi-Cal and the relative effectiveness of the department's anti-fraud activities. The Auditor also questioned the department's dispersal of anti-fraud activities throughout DHS operations, noting that there was no central administrative point responsible for all anti-fraud activity.

DHS decentralized the anti-fraud activities in order to emphasize that the anti-fraud actions are everyone's responsibility. Do you accept the reasoning behind the department's dispersal of anti-fraud actions? Do you feel there is a more productive organization for this activity?

The fact that Medi-Cal's anti-fraud efforts are decentralized is reflective of the fact that these efforts involve a wide range of programmatic, policy and enforcement actions, each of which fall under different programs and authorities within DHS. Audits and Investigations (A&I) is responsible for protecting the integrity of the Medi-Cal program and as such, engages in investigative activity of program fraud and imposes sanctions, issues audits, and makes referrals to law enforcement. The Medi-Cal Fraud Prevention Bureau (MCFPB), which now reports to A & I, performs risk assessments and follow-up reviews for Medi-Cal fraud. Medical Care Services (MCS) administers the Medi-Cal program and focuses on provider enrollment and development of policies and procedures that address issues related to benefits, reimbursements, and eligibility. By necessity, a main focus of MCS is the policy and delivery-of-service aspect of Medi-Cal – ensuring that the program is organized such that beneficiaries are provided the services to which they are entitled and that services are delivered as efficiently and safely as possible.

While I believe that there exists some sound reasoning behind the current decentralized approach to Medi-Cal fraud, it does not mean that the current approach is the best approach. In fact, the Department already has begun an internal review of how it is currently configured to combat fraud and will be identifying areas for improvement as well as alternatives to the current way in which it is structured to carry out this function.

8. **How do you balance the need to hold the line on state operations costs while ensuring that we are maximizing our efforts to capture savings from legislative enacted reform proposals? For example, hiring freezes have reduced our ability to obtain savings in drug rebates, estate recoveries, and some audit activities.**

In making decisions to establish, fill, or eliminate staff positions, one must continually weigh the priority of capturing savings associated with legislatively enacted program changes against demands to reduce state operations costs. In

making decisions related to future departmental cost control efforts, I would place great priority on those positions that can generate savings for the state, be they involved in fraud prevention; collection of money owed the department; or generation of additional revenues.

RESPONSES TO QUESTIONS
of the
SENATE RULES COMMITTEE
by
PETER S. SILVA
STATE WATER RESOURCES CONTROL BOARD
March 23, 2004

RESPONSES TO QUESTIONS

1. *Please provide us with a brief statement of goals. What do you hope to accomplish during your tenure as a member of the State Water Resources Control Board?*

I would like to continue the work I have started during the last four years as vice-chair of the State Water Resources Control Board (State Board or SWRCB). In that time, I have identified key goals that I believe are critical to improving water quality:

- ❖ In these difficult budget times, it is important to become more efficient in use of the State Board's resources. Additionally, we must find ways to prioritize the work that we do to maximize the limited resources available to us.
- ❖ We must continue the work started on control and regulation of non-point sources of pollution, especially from timber and agricultural sources. Included in this is the use of fees to manage the regulatory program and establishing effective monitoring programs.
- ❖ The TMDL program must continue to be a priority statewide. As part of this, watershed approaches must be incorporated into this effort to ensure more effective implementation.
- ❖ Work should continue on all the programs (MS4s, industrial and construction storm water) regulating storm water runoff to address beach contamination and closures.
- ❖ The State Board's water rights functions need to be evaluated and reinforced to ensure proper and timely responses to important water rights issues that affect water allocation throughout the state.
- ❖ As a personal goal, the State Board needs to stay involved in issues related to the U.S.-Mexico border area. This is necessary to address long-standing water supply and quality problems between the two countries.
- ❖ Perhaps the most important overarching issue that this Board needs to maintain at the forefront is the incorporation of environmental justice in all our programs. As an example, we were able to use creative approaches in providing funding from several sources to the communities of the Southern California Inland Empire to address perchlorate contamination of their groundwater. Environmental justice must continue to be an integral part of all that we do at the State Board.

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2. *How are you participating in the governor's proposed review of governmental organization? What are your priorities for change or what boxes should be "blown up?"*

The State Board is involved in the Governor's organizational review, as are other agencies, by providing personnel on a temporary basis to be part of the California Performance Review. We feel it is an important effort that needs to be supported by us and other agencies.

With respect to priorities or views on potential changes, we obviously would be most interested in how the State Board might be affected either through expansion or reduction of existing functions. As part of that, we would be looking at what might happen to other agencies with authority over water resources management or regulation of pollution sources. It appears to us that for the State Board, the most logical areas of impact would be changes to agencies within Cal/EPA and the Resources Agency.

3. *Have you considered downsizing the number of members on the regional water boards? What are your thoughts on this issue?*

The idea of reducing the size of the Regional Boards has been discussed internally for some time. It has been part of a broader discussion of how to make the State Board and Regional Boards be more efficient and function better overall. The reduced budgets as well as stakeholder input have brought this issue to the forefront.

My personal opinion is that if we are going to change the Regional Boards, we should take the time and effort to do it right. For example, we should look at other changes such as removing the NPDES limitation to expand the candidate pool. In reducing the number of members, the qualifications to serve become more important and need to be well defined. In addition to the Regional Board members themselves, the relationship between the State Board and Regional Board managers might also be looked at.

In summary, the idea of reducing the Regional Board members is workable. However, a broader review could be undertaken of the State and Regional Boards to make them more efficient.

AGRICULTURAL WATER DISCHARGE WAIVER

Recently, your board upheld the Central Valley Regional Water Board's waiver for agricultural discharges. Neither the regional board's waiver or the state board's upholding required any discharge fees as has been required for others who have obtained discharge waivers.

4. *Do you support a fee structure to address agricultural discharges that are detrimental to water quality? How do you propose these discharges be regulated?*

Yes. Fees are needed to support implementation, administration and enforcement of the waiver, as well as required monitoring. In the last legislative session, SB 923 was adopted to authorize fees for waivers, which are presently used to regulate agricultural discharges. We look to the Legislature to provide authority in this upcoming budget year to expend fees for waivers.

Regulation of agricultural discharges is a complex issue because of the number and variety of agricultural operations. We need to leverage maximum cooperation from the agricultural community to successfully protect water quality. I believe the existing conditional waiver approach is the best way to accomplish the joint goals of water quality protection and maximum

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cooperation from the agricultural community. The State Board recently reviewed the Central Valley agricultural waivers and we approved the waivers but we directed the Regional Board to return to the State Board to report progress on a regular basis so that we can ensure continued progress.

TIMBER HARVEST REVIEWS

In the review of timber harvest plans, water quality concerns of regional water boards and wildlife concerns of the Department of Fish and Game have often been overruled by Department and Board of Forestry officials. SB 810 (Burton) of last year sought to correct these problems.

5. *What will the state board do in supporting or encouraging the regional boards consistent and meaningful implementation of SB 810?*

The California Department of Forestry and Fire Protection (CDF) has rejected between 5 and 15 percent of Regional Board recommendations for ensuring protection of the quality and beneficial uses of water from the effects of individual timber harvest plans (THPs). (The range depends on how one counts partial acceptance or modification of a Regional Board recommendation.) The rejected recommendations principally involved differences regarding cumulative impacts of timber harvesting and the need for water quality monitoring.

The State Board and the Regional Boards are firmly committed to full implementation of SB 810. Resources will be directed, as necessary, to ensure its full implementation. The initial implementation of SB 810 may require additional resources from the existing THP program to establish experience in this process. The Regional Boards are developing waste discharge requirements for THPs in the most problematic areas.

The State Board and the Regional Boards are working with CDF to resolve the cumulative impact issues that have resulted in impairment of the State's waters. We are also discussing when monitoring should be required.

I would also like to point out that, on March 18, a California Appellate Court upheld the State Boards' clear and independent statutory authority under the Porter-Cologne Act to regulate the effects of timber operations notwithstanding the approval to a THP by CDF. This authority, coupled with the new authority of SB 810, gives the State Board the tools it needs to ensure water quality protection on timberlands.

LOCAL ASSISTANCE BOND FUNDS

The Legislative Analyst has found that there are a significant amount of water quality bonds, that go back to 1984, that have been appropriated in the current and prior years and have not been expended.

This is due, in part, to staffing reductions that have delayed the implementation of some bond-funded programs. For your board, there has been over \$667 million appropriated in the 2003/2004 budget but only \$51 million encumbered as of January 2004.

That is less than 8 percent of the amount available.

6. *Why has your board allocated less than 8 percent of available local assistance bond funds to date?*

First, I would like to provide some clarifying information about the appropriations that are displayed in the budget for the State Board. The overwhelming majority of the local assistance for the bonds prior to Prop 13 (2000 Bond) has been distributed and there is little or no remaining local assistance available. Most of the funds are continuously appropriated and were

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spent. Most of the balance shown in the 1984 bond accounts is from repayments of loans and was recommitted to water recycling projects in January 2002. We are now reviewing designs and executing contracts for those funds. Two Programs with significant remaining local assistance are the Agricultural Drainage Loan Program (approximately \$16 million remaining) and the Agricultural Drainage Management Loan Program (approximately \$19 million remaining). We have no active applications for the programs.

❖ Proposition 13

The State Board has a large Prop 13 local assistance appropriation in the Fiscal Year [FY] 03-04 budget. The funding for several of the State Board's programs (Small Community Grants, Seawater Intrusion, Santa Ana River Watershed, Lake Elsinore and San Jacinto and State Revolving Fund) has been fully disbursed or will be fully encumbered by the end of this FY.

The Programs with the largest remaining appropriations are the Watershed and Non-Point Source Programs. The State Board distributed these funds in 3 phases. Phase 1 funds have been encumbered. The funds from Phase 2 will be encumbered by the end of the FY. The State Board is in the process of committing the third phase through our Consolidated Grant solicitation. Those funds will begin to be encumbered toward the end of this FY and continuing into early FY 04-05. Encumbering the Phase 3 grants will deplete most of the remaining State Board Prop 13 local assistance appropriation. There will only be a small amount of funding remaining once we complete Phase 3. These limited funds will be from projects that were approved, but the recipients ultimately did not pursue a contract to implement the projects.

The Prop 13 Wastewater Construction Grants Program provided funding to four cities specified in the bond act (Manteca, Stockton, Tracy and Orange Cove). The ramp up effort to receive the funds took the cities longer than expected. However, all of the recipients have committed to completing contracts with the State Board and encumbering the remaining funds by the end of this FY.

The State Board is also working on contracting several remaining Prop 13 Clean Beaches Initiative projects that were designated in the 2001 Budget Act. Several applicants have broken their projects into multiple phases and contract cycles, so funds are disbursed out of multiple fiscal years. A few of the agencies did not submit projects for the designated funds. The funds for those projects will revert to the Coastal Non-Point Source Sub-Account at the end of this FY and will be available for reappropriation.

The State Board is currently negotiating contracts for approximately \$25 million for Water Recycling projects, and expects to encumber those funds early in FY 04-05. Those projects will deplete the remaining Prop 13 local assistance, aside from the revolving fund repayments.

❖ Proposition 40

All of the State Board's Prop 40 funds were appropriated by AB 2534 (Ch. 727, Statutes of 2002). The State Board has until December 31, 2006, to encumber these funds. The State Board is staggering the programs over this timeframe. The State Board has initiated the process to commit approximately half of the funding available for the Prop 40 Clean Beaches Program (approximately \$22 million) and has begun encumbering the funds. The State Board anticipates initiating the process to commit the remaining Prop 40 Clean Beaches Program funds in June 2004.

The State Board is developing solicitations for the Agricultural Water Quality (\$11 million) and Small Community Wastewater (\$13.7 million) and Small Community Groundwater (\$9.1 million) grants. The State Board will run a combined Prop 40/50 solicitation process for the Agricultural Water Quality and Small Community Wastewater grants. Because enabling legislation for Prop 50 contains specific solicitation requirements, the award process timeframes will be longer.

❖ Proposition 50

The State Board administers 12 programs under Prop 50. The State Board received \$165.5 million appropriation in FY 03-04 from Prop 50. With the exception of the Agricultural Water Quality appropriation, the State Board has three years to encumber the funds. The State Board is in the process of committing CALFED Drinking Water (\$20.5 million available) and CALFED Watershed (\$20 million available) grants as part of the current Consolidated Grant solicitation. These projects must be approved by the Bay-Delta Authority prior to the State Board committing funds. These agreements will be executed and funds encumbered next FY.

The State Board has initiated the process for developing guidelines for the Prop 50 Agricultural Water Quality (\$9.5 million) and Small Community Wastewater (total of \$30.5 million to be appropriated in multiple years) grants. The State Board plans to combine the funding with the Prop 40 funding for efficiency of distributing the funds. For the Small Community Wastewater grants, the State Board will revise existing guidelines and develop a priority list of projects to be funded, as additional money is appropriated.

The State Board is developing joint guidelines with the Department of Water Resources for the Integrated Regional Water Management Program. The agencies anticipate making the first awards using the FY 03-04 appropriation (\$26 million) combined with subsequent FY appropriations in the summer of 2006. The agencies anticipate that the proposals for these grants will be for large projects; the grant cap is \$50 million.

The State Board is negotiating an agreement to disburse the \$7 million appropriated in FY 03-04 to match Coastal Conservancy funds for the California Ocean Data Observing System. The State Board expects to encumber those funds this FY or early next FY.

The 2003 Budget Act contained \$42.2 million for local assistance to accelerate the CALFED Water Recycling Program. Due to limited resources, the State Board was not able to fully initiate this program until recently. The State Board expects to adopt guidelines in the fall of 2004 and encumber funds in FY 04-05.

A combination of Prop 40 (\$6.4 million) and Prop 50 (\$6.5 million) funding will be utilized to fund the statewide groundwater monitoring effort (AB 599). Those funds will be encumbered by the end of this FY. The AB 599 Report to the Legislature creates a statewide comprehensive monitoring plan to be implemented over a 10-year period.

In summary, the State Board has considerable Prop 13, 40 and 50 local assistance appropriations in this FY budget. The programs to distribute the local assistance are in various stages of the process. All of the programs are planned and on track.

7. *Could you provide us with a timeline for putting these bond funds, some which originate from 1984, out the door?*

Attached are timelines that shows the anticipated schedule for distributing the State Board's Prop 13, 40 and 50 local assistance appropriations. As discussed above, the State Board has little remaining local assistance available from bonds prior to Prop 13 with the exception of the Agricultural Loan Programs. We currently do not have any applications for those funds so we cannot provide a timeline.

As shown on the timeline, the State Board utilizes a multi-step process to award local assistance grants. The number of steps involved and the length of time the process takes differ slightly depending on the grant program. The process generally involves the following steps:

- conduct workshops and outreach to obtain stakeholder input into criteria for grant award and the selection process,
- develop guidelines or solicitation packages,
- conduct additional outreach and hold workshops to advertise the grant availability,
- receive, review, and rank grant submittals,
- award grants,
- negotiate and execute agreements for each project including encumbering funds,
- manage contracts and track project implementation including processing invoices and payments,
- disseminate project information to water quality programs,
- close-out the project when it is completed.

On the timeline, we have combined the steps into four major activities: (1) Guidelines and Solicitation, (2) Awards, (3) Agreements, and (4) Implementation to illustrate the overall process.

The process of awarding the grant may take over a year to complete, depending on whether a one- or two-step (where applicants submit an initial concept or pre-proposal) process is used for awarding the grants. Negotiating and executing contracts may take months to years, depending on several factors including staffing and responsiveness of the grantee. Project implementation, closeout and monitoring times also vary depending on the project.

COASTAL WATER QUALITY

The federal EPA has just released its Second National Coastal Condition Report that found that the overall condition of the West Coast's coastal waters were listed as fair to poor. Specifically, 17 percent were listed as impaired for human and aquatic use, 10 percent impaired for aquatic use, 59 percent threatened and only 14 percent unimpaired.

In addition, California led the west coast in beach closures and advisories with 66.2 percent of its beaches having been closed or advisories issued.

8. *How is the state board coordinating the cleanup of the state's coastal waters and beaches? Could you provide us with a timeline for this cleanup? Is there an estimate of when beach closures and advisories will not be required?*

First, let me comment about the statement made in the introduction to Question 8 that says that California lead the west coast in beach closures and advisories with 66.2 percent of its beaches having been closed or advisories issued. This statement gives an impression that there is an

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enormous amount of beach area that has been posted with advisories or closed within some time period. This is wrong! If you look at the coastline for Southern California alone, the area that has the highest numbers of advisories and closures, less than 1 percent of the available Beach Mile-Days were posted or closed during 2002. California's beaches are regulated by a stringent set of public health standards and are monitored more than anywhere else in this country. Admittedly not every mile of beach is monitored, however, where we do monitor are the locations that receive the highest use and are the most likely to show a problem, i.e., close to storm drains. The numbers of warnings issued are a result of a very intensive monitoring program and the most protective public notification system in the nation.

(a) *How is the State Board coordinating the cleanup of the State's coastal waters and beaches?*

The State Board uses the results of the extensive beach monitoring efforts to target existing programs to identified problems. Key to the success of our efforts is our establishment of the "Beach Watch" data system and our reporting as part of the EPIC program on our progress in reducing beach closures and advisories. The TMDL program is used to identify and prioritize clean-up activities using existing programs such as the storm water program, non-point source program, permitting of sewage treatment facilities and collection systems, and grant funding. We also work closely with the Beach Water Quality Workgroup (partnership of federal, state, and local governmental agencies, environmental advocacy groups, environmental consultants, and scientific researchers to tackle beach problems) which has provided a consistent approach to monitoring and reporting beach health, and funding development of new tools for better protection of human health and source tracking. Lastly, the Regional Boards have aggressively enforced against sewage spills, and the State Board is embarking on a program to develop a consistent statewide approach to reporting sewage spills.

(b) *Could you provide us with a timeline for this cleanup?*

The State Board's goal is that by the year 2010 beach closures and advisories are reduced by 75 percent from 2000 numbers. The distribution of grant funds is a principal tool to reduce beach contamination because it provides money to fund projects that reduce beach and coastal water contamination. There is approximately \$90 million in Prop 13, 40 and 50 grant funds dedicated to reducing beach contamination. These funds are currently being distributed after a legislatively mandated review by an independent committee of beach experts, the Clean Beaches Task Force, to ensure the moneys are allocated to good projects. The Prop funding currently available to improve beach water quality will provide project funding through FY 08/09.

(c) *Is there an estimate of when beach closures and advisories will not be required?*

Beach closures and advisories will continue for the foreseeable future. The costs of making a fail-safe sewage collection and treatment system are currently prohibitive. In addition, there are sources of bacterial contamination that are not and never will be under our control. These include sources such as marine mammals, shore birds, and other wildlife that exist in upstream areas. Our goal is to reduce the number of closures and advisories caused by controllable sources to the absolute minimum within the boundaries of technology and affordability.

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PERCHLORATE

Last week, the Office of Environmental Health Hazard Assessment (OEHHA), the SWRCB's sister agency in Cal/EPA, issued its drinking water public health goal (PHG) for Perchlorate at 6 PPB.

9. *What action will you take as a member of the SWRCB to ensure Perchlorate water contamination will be cleaned up? Do the state board and the regional boards have standards for the investigation and remediation of Perchlorate? If so, what are those standards?*

As a member of the State Board I will ensure that our statewide perchlorate action plan is implemented which:

- prioritizes possible perchlorate sources nearest to impacted drinking water wells,
- requires investigation of potential sources, and
- requires cleanup of known perchlorate sources.

I will ensure ongoing interagency coordination and data sharing through the monthly perchlorate roundtables that State Board staff host. These roundtables include representatives from Cal/EPA, the Department of Toxic Substances Control, the Office of Environmental and Health Hazard Assessment, the Department of Food and Agriculture, the U.S. Environmental Protection Agency and each Regional Board.

The water boards have broad authority in the Water Code to regulate discharges and require investigation and cleanup of any threat or actual impact to water quality. In addition, the State Board has a formal regulatory policy for investigation and cleanup of such impacts (Resolution 92-49). The water boards identify property owners and tenants, past and present, as responsible parties. Responsible parties are required to investigate contamination and clean up water quality to background concentrations, and in no case to levels that would adversely affect the designated beneficial uses of surface water and groundwater.

10. *Do you support making those responsible for Perchlorate contamination pay for the costs of cleaning it up, or do you think water ratepayers should pay for those costs as part of drinking water treatment?*

As discussed above, the State Board has broad authority and a strong record of requiring responsible parties to clean up contaminated water, including at sites where perchlorate has been released. Some of these sites include Aerojet in Rancho Cordova, the Olin manufacturing facility (safety flares) release in San Martin, Edwards Air Force Base, and the Rialto-Colton area.

The public policy challenge is cases where the responsible party has not been identified or is not financially capable of cleanup. In those cases, water purveyors are able to request relief through application for recently approved bond funds -- Propositions 13, 40, and 50. For example, the State Board has provided over six million dollars in Cleanup and Abatement Account funds and Prop 13 funds to water purveyors in the Rialto-Colton area for wellhead treatment of perchlorate.

Peter S. Silva

March 23, 2004

11. What actions would you take to clean up Colorado River water to ensure that Perchlorate contamination is removed?

Concentrations of perchlorate in the Colorado River have often exceeded the recently established public health goal of 6 ppb. A large percentage of the population in Southern California relies on Colorado River water as a partial source of drinking water. There are numerous small communities in the Imperial Valley that rely on Colorado River water as their only source of drinking water. We know that the Department of Health Services will work with these communities to address water quality concerns associated with perchlorate.

The State of Nevada is working with U.S. Environmental Protection Agency [USEPA] to contain the discharge of perchlorate to the Las Vegas Wash from the original manufacturing plant at Henderson, Nevada. However, even if that containment is completely effective, there exists a legacy of perchlorate contamination both in the Las Vegas Wash as well as Lake Mead itself. We are hopeful that the measures being taken will quickly result in a reduction of the concentration of perchlorate in the Colorado River. If concentrations in the Colorado River do not decline, then we will ask the State of Nevada as well as USEPA to consider additional measures.

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SENATE RULES COMMITTEE

STATE OF CALIFORNIA

HEARING

STATE CAPITOL

ROOM 113

SACRAMENTO, CALIFORNIA

WEDNESDAY, APRIL 14, 2004

1:37 P.M.

Reported by:

Evelyn J. Mizak
Shorthand Reporter



APPEARANCESMEMBERS PRESENT

SENATOR ROSS JOHNSON, Vice Chair

SENATOR BETTY KARNETTE

SENATOR GLORIA ROMERO

MEMBERS ABSENT

SENATOR JOHN BURTON, Chair

SENATOR WILLIAM KNIGHT

STAFF PRESENT

GREG SCHMIDT, Executive Officer

PAT WEBB, Committee Secretary

NETTIE SABELHAUS, Consultant on Governor's Appointments

SUSIE SWATT, Consultant to SENATOR JOHNSON

TIM SHELLEY, Consultant to SENATOR KARNETTE

CHRIS BURNS, Consultant to SENATOR KNIGHT

CARY RUDMAN, Consultant to SENATOR ROMERO

ALSO PRESENT

LORIS "RYAN" BRODDRICK, Director
Fish and Game Department

SENATOR TOM TORLAKSON

CHRIS VOIGHT
California Association of Professional Scientists

ROB ROSS, Executive Director
California Fisheries and Seafood Institute

JACKSON R. GUALCO
Council for Environmental & Economic Balance
Kern County Water Agency

1 BILL GAINES, Director of Legislative Affairs
2 California Waterfowl Association

3 MARK BIDDLECOMB, Director of Conservation Programs
4 Ducks Unlimited

5 JOHN C. DUNCAN, Member
6 Public Employment Relations Board

7 DANIEL CURTIN, Director
8 California Conference of Carpenters

9 ROBERT D. PURCELL, Director
10 Public Employee Department
11 Laborers International Union of North America

12 TIM CREMINS
13 Union of Operating Engineers, AFL-CIO

14 LESTER A. SNOW, Director
15 Water Resources

16 MARY JANE FORSTER FOLEY, Former Member
17 State Water Resources Control Board
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--ooOoo--

CHAIRMAN JOHNSON: A quorum is present.

Ryan Broddrick, Department of Fish and Game, come on down.

You brought along a Senator.

SENATOR TORLAKSON: If I may, Senator Johnson, Members, I'm very happy to be here to introduce to you someone you may know already, but Ryan Broddrick is someone I've worked with for many years. I met him when I was Chairman of the Delta Protection Commission on several task forces when I was a county supervisor in the Delta.

He can navigate many channels. There's 1100 miles of channel in the Delta. I've been out on boats with him, and we've never gotten lost yet.

This individual brings more than 20 years of experience in the Department of Fish and Game, and 30 years of resource and conservation experience. He started in 1981 as a game warden. He's worked his way through the ranks. He was appointed as Regional Manager for the Sacramento Valley, Central Sierra Region. I met him in that capacity when he was working on policy issues and bringing together elected officials around the area to understand the resource values and strategies we could have to protect them.

As you know, he was promoted to Deputy Director in 1996, and soon, under Pete Wilson, Chief Deputy Director. He retained that position through the transition in the Gray Davis

1 administration, then went to work for Ducks Unlimited. And he's
2 a strong advocate -- Ryan Broddrick's an excellent advocate for
3 wetlands and waterfowl issues, and for partnerships and habitat
4 development between landowners, agriculture, and conservation
5 groups.

6 The main thing I would say about Ryan is, the
7 most important recommendation I could make is, that he's a hard
8 worker. He's dedicated. He's effective. He's a great
9 listener. He has the trust of those who work with him, and most
10 of all, he cares about the wonderful resources of California,
11 particularly our wetlands and our fishery and wildlife
12 resources.

13 With that, I introduce to you Ryan Broddrick.

14 MR. BRODDRICK: Senator Torlakson, thank you.

15 Senator Johnson and Members of the Committee, I
16 am blessed and humbled to be here before you seeking
17 confirmation of my appointment as Director of the Department of
18 Fish and Game. I have had the opportunity to work in this great
19 state from the full extent and range of from Southern California
20 to the northern mountains, east and west. I've had the
21 opportunity to provide, I hope, a stewardship and mentoring of a
22 variety of folks, both within and outside the Department.

23 I'm totally committed to providing the best
24 public resource protection through a variety of mechanisms the
25 Department has. We're a fascinating department. Over half a
26 million acres of free land, half a million acres in easement,
27 2,000 employees distributed over the full 58 counties of
28 California.

1 I had the opportunity to work for the Department
2 over 21 years. I didn't leave conservation when I left the
3 Department of Fish and Game, but I focused on partnerships,
4 working with both nongovernmental organizations, private
5 landowners, the public at large, and focusing on how can we
6 provide the best and most pragmatic and most effective
7 conservation of the resources in California.

8 I have had experience through the ranks of Fish
9 and Game from the law enforcement end, into the management
10 positions. My degree was in zoology, so I have the academic and
11 education background.

12 I do not pretend to understand all the
13 complexities and all the demands that are placed on both the
14 resources and the social relationships that our environment has
15 with our communities. However, I have spent considerable time
16 trying to forge partnerships, provide leadership throughout the
17 Department and across disciplines. I've enjoyed open
18 communication with all the employees of the Department, and my
19 experience with the Department, and what drew me back to the
20 Department, in addition to the beautiful resources of this
21 state, was exceptional employees, very dedicated to the
22 performance of their duties, very dedicated to providing a
23 contribution across all the diverse stakeholders that the
24 Department of Fish and Game represents.

25 I look forward to serving as the Director of Fish
26 and Game, subject to your confirmation. I'm honored to have the
27 appointment from the Governor and the support of the Secretary
28 of Resources. I hope I can put 20-plus years of experience to

1 effective work, building leadership within the Department,
2 building partnerships with the Legislature, identifying ways and
3 means in which we can do more with less in this particular
4 environment. However, that has been a challenge the Department
5 has dealt with for many years. And I hope that I can represent
6 the interests of the full diverse stakeholders within the
7 Department.

8 CHAIRMAN JOHNSON: Thank you. Does that conclude
9 your presentation?

10 MR. BRODDRICK: Yes, sir.

11 CHAIRMAN JOHNSON: Senator Romero.

12 SENATOR ROMERO: No questions.

13 CHAIRMAN JOHNSON: Senator Karnette.

14 SENATOR KARNETTE: I would just like to comment,
15 when I talked to you earlier I'm very concerned, representing
16 Long Beach and the fishing, both the pleasure fishing and
17 commercial fishing, and I understand you're really committed to
18 saving our oceans and the fish in them, particularly the fish,
19 since it's Fish and Game.

20 MR. BRODDRICK: Senator Karnette, I think that I
21 have, in the last two months, spent a lot of time talking both
22 with environmental organizations and the fishing community.
23 I've tried to make myself available and discuss the full
24 spectrum of interests, intentions. And if there's room to build
25 bridges there, I'm committed to doing that.

26 SENATOR KARNETTE: Thank you.

27 CHAIRMAN JOHNSON: Witnesses in support.

28 MR. VOIGHT: Thank you Chairman, Members of the

1 Committee.

2 Chris Voight on behalf of the scientists that
3 work at the Department of Fish and Game, the California
4 Association of Professional Scientists. We represent some 3,000
5 scientists throughout state government, and some 500
6 environmental specialists, biologists, and related scientists at
7 the Department of Fish and Game.

8 We know Mr. Broddrick very well and support his
9 appointment enthusiastically.

10 Thank you.

11 CHAIRMAN JOHNSON: Thank you, sir.

12 Next witness.

13 MR. ROSS: Mr. Chairman and Members, my name is
14 Rob Ross. I'm the Executive Director of the California
15 Fisheries and Seafood Institute.

16 I'm here today to support Mr. Broddrick's
17 appointment. I have not known him long or known him well, but I
18 know people in the industry who do. They say great things about
19 him. Just seeing Senator Torlakson up here speaks volumes.

20 CHAIRMAN JOHNSON: You've been informed and
21 believe, and there on a ledge.

22 MR. ROSS: Yes, sir. Couldn't have said it
23 better.

24 Thank you.

25 CHAIRMAN JOHNSON: Next witness, please.

26 MR. GUALCO: Good afternoon, Mr. Chairman and
27 Members.

28 Jack Gualco on behalf of the California Council

1 for Environmental and Economic Balance, the Kern County Water
2 Agency, and many of our other clients, all of whom, including
3 myself, have had a chance to work with Ryan for many, many
4 years. And we associate ourselves with Senator Torlakson's
5 eloquent introduction of the Director and urge your advice and
6 consent in his appointment.

7 Thank you.

8 CHAIRMAN JOHNSON: Thank you.

9 Next.

10 MR. GAINES: Mr. Chairman and Members of the
11 Committee, my name is Bill Gaines. I'm Director of Governmental
12 Affairs for the California Waterfowl Association.

13 Our Association's mission is to conserve
14 California's waterfowl, our wetlands, and our sporting heritage.
15 To achieve this mission, we must work closely with a variety of
16 public and private partners throughout California and our
17 nation. No partner is more important to us than the Department
18 of Fish and Game.

19 As a result, the Director of the Department of
20 Fish and Game is of significant interest to our Association.
21 Mr. Broddrick has served in the resource arena for 30 years.
22 He's got 20 years with the Department, including four years as
23 the Department's Chief Deputy, two additional years as the
24 Deputy Director, 3 years as a regional manager, and 12
25 additional years in the Department's enforcement branch. During
26 this lengthy tenure, he has earned the respect and the trust of
27 the Department's employees. And of equal importance, he has a
28 thorough knowledge of the Department of Fish and Game's revenue

1 streams and their budgets. I have had the pleasure of working
2 closely with Mr. Broddrick throughout the 1990s on an annual
3 basis on the Department's budget issues.

4 He's got the background and the thorough
5 knowledge to help guide the Department through the state's
6 current fiscal crisis. There's no question in the California
7 Waterfowl Association's mind that Mr. Broddrick is California's
8 best choice for the Director of the Department of Fish and Game.
9 We offer him our strong support.

10 Thank you.

11 CHAIRMAN JOHNSON: Thank you.

12 Further witnesses in support?

13 MR. BIDDLECOMB: Mr. Chairman, Committee
14 Members, I'm Mark Biddlecomb with Duck Unlimited, Director of
15 Conservation Programs.

16 I would like to say that DU also heartily
17 endorses Mr. Broddrick for the Director of the Department of
18 Fish and Game.

19 I had the personal experience of working with
20 Mr. Broddrick for several years, and I can promise you that he
21 was a very good coalition builder, and he truly has the resource
22 at his heart.

23 I'm a man of few words, and I'll let it go at
24 that. We endorse him very much.

25 Thank you.

26 CHAIRMAN JOHNSON: Thank you.

27 Witnesses in opposition?

28 Do you have any family members here?

1 MR. BRODDRICK: No, sir. The wife's in Tennessee
2 taking care of a mother that had some heart surgery. One son's
3 in the Air Force and otherwise occupied in the east, and the
4 other son is trying to get through his last quarter of school.
5 So, my family is behind me at the moment.

6 CHAIRMAN JOHNSON: All excused absences.
7 What's the pleasure of the Committee?

8 SENATOR KARNETTE: Move it.

9 CHAIRMAN JOHNSON: It's been moved. Secretary,
10 call the roll.

11 SECRETARY WEBB: Senator Karnette.

12 SENATOR KARNETTE: Aye.

13 SECRETARY WEBB: Karnette Aye. Senator Romero.

14 SENATOR ROMERO: Aye.

15 SECRETARY WEBB: Romero Aye. Senator Johnson.

16 CHAIRMAN JOHNSON: Aye.

17 SECRETARY WEBB: Johnson Aye. Three to zero.

18 CHAIRMAN JOHNSON: Congratulations.

19 MR. BRODDRICK: Thank you very much.

20 CHAIRMAN JOHNSON: John Duncan, Member of the
21 Public Employment Relations Board.

22 Good afternoon.

23 MR. DUNCAN: Good afternoon. Thank you for
24 hearing me today. It is a distinct honor to be here.

25 To quickly highlight some relevant areas of my
26 background, I previously served as member and Chair of the
27 state's Employment Training Panel in 1999 and 2000. This was a
28 panel comprised of labor and management representatives. And

1 during that time, we worked together to create and keep jobs in
2 California.

3 As Chief Deputy Director and Director of DIR, I
4 dealt with a broad spectrum of labor related issues and
5 constituencies.

6 PERB is a quasi-judicial administrative board,
7 and it oversees five collective bargaining statutes, covering
8 7,000 public employers and 2 million employees. It's my belief
9 that PERB effectively provides employers, unions and employees a
10 neutral forum in which to resolve their disputes.

11 These are very busy times at PERB. Previously
12 the Board, just a few short years ago, reviewed 500 unfair
13 practice charges per year. Last year there were 800 charges,
14 and this year we're on track to exceed that number.

15 To accomplish this, we emphasize mediation and
16 conciliation as a first step to resolution, and approximately,
17 and it's not widely understood, that 75 percent of the Board's
18 complaints are resolved through this voluntary settlement
19 process. However, when mediation fails, we provide the parties
20 an opportunity to litigate their dispute quickly and
21 efficiently. And one of the Board's most important jobs is to
22 provide guidance to the parties through clear and concise
23 decisions.

24 With this in mind, and I know it's a concern of a
25 number of the Members here, I've been working with other members
26 of the Board and staff to address and reduce the present backlog
27 of cases caused really by the increase in PERB's jurisdiction.
28 We've already made some organizational changes to that end.

1 The public employees, their unions, and employers
2 of the state deserve a timely review of their disputes, and I
3 look forward to working with you, with the Board, and the staff
4 towards this goal.

5 Thank you very much.

6 CHAIRMAN JOHNSON: Thank you.

7 Senator Romero.

8 SENATOR ROMERO: No questions.

9 CHAIRMAN JOHNSON: Senator Karnette.

10 SENATOR KARNETTE: I was glad to hear the last
11 thing about the workload.

12 But there are only three people on the Board now.
13 If you had five, would that make it easier for you?

14 MR. DUNCAN: Five members would make it easier.
15 There are -- there right now are -- we have three Board members.
16 We have one -- that means we have one panel. You have five, you
17 have five authors, and you can have basically two separate
18 panels.

19 And so, it would make it -- make it easier.
20 That's one of the actions I think we need to take.

21 SENATOR KARNETTE: I think efficiency, if I we
22 wanted the backlog, I think it's of concern to both employers
23 and employees.

24 MR. DUNCAN: That's -- I share your concern.
25 Right now at the Board level, we have 92 cases, all of a wide
26 range of issues that, you know, we need to address.

27 CHAIRMAN JOHNSON: Witnesses in support.

28 MR. CURTIN: Mr. Chairman and Members, my name

1 is Danny Curtin. I'm the Director of the California Conference
2 of Carpenters.

3 This is an appointment that doesn't directly
4 affect our organization, but I did feel compelled to come and
5 tell you that I personally have had a relationship with John in
6 terms of the politics of this town and our organization for
7 about a decade now. And I would say that, while we don't always
8 agree, which would be certainly safe to say, I've always found
9 John someone who was very easy to talk with about finding
10 solutions to problems.

11 As Director of Industrial Relations, and as Chief
12 Deputy Director of Industrial Relations under previous
13 governors, a governor, we often had disputes.

14 One thing I can assure you, John is committed to
15 workers' rights and employers' rights, and finding out the way
16 to balance those rights. We didn't, again, always agree on
17 exactly what that solution might be, but there was never a
18 question in my mind that that was the objective. There was no
19 games played, no hidden politics. We had some interesting
20 political discussions off work hours, but when it came to taking
21 care of what needed to be taken care of, solutions were what we
22 were after.

23 I was -- I'm only unhappy about the fact that
24 John did not get appointed to a position where we would have
25 some more interaction in terms of taking care of business. This
26 is not an area where we're involved in.

27 But I encourage you to support this nomination.
28 Thank you.

1 CHAIRMAN JOHNSON: Thank you very much.

2 Senator Romero has a question, I believe.

3 SENATOR ROMERO: There's been some discussion in
4 the Legislature about how contracts that have been negotiated,
5 how they are presented to the Legislature in timeframes for our
6 examination. A lot of us have expressed some discontent by
7 basically having an MOU presented sometimes in the final days of
8 session, and in the dark of night, no information. And later
9 there have been expressions of buyer's remorse.

10 Can you give me suggestions that you might have
11 as to how we in the Legislature might, without micro-managing
12 the negotiations, but at the same time being responsible for
13 votes in which we affirm or deny a contract from being ratified,
14 what thoughts you may have for the Legislature to put more
15 sunshine and information before Legislators who are asked to
16 ratify these contracts?

17 MR. DUNCAN: That is a very good question. I
18 have to, unfortunately, emphasize the judicial nature of our
19 Board, because a number of these types of issues could come
20 before us if a dispute arises.

21 Now, and I don't know if that's a fully adequate
22 answer to the question, but I -- it's very dangerous to, in this
23 position, because different types of disputes that can manifest
24 themselves in different cases in front of us, this might
25 potentially be an issue that could be before us judicially.

26 I'm speculating, but I do read the newspapers and
27 follow these issues with interest.

28 I recognize what you -- I'm taking what you've

1 said. I apologize for not a more specific answer.

2 SENATOR ROMERO: But perhaps at some point, and I
3 understand the concern that you're raising, but it is an issue,
4 though, that as I go through my booklet, again, this point is
5 raised in.

6 At some point, in a way that wouldn't compromise
7 something that may come before you in the future, if there's a
8 way to just interface with us to give us some ideas as far as
9 how we might be in a better position to receive contracts that
10 may come before us would be appreciated.

11 MR. DUNCAN: I'd be happy to do that. We can
12 have a philosophical discussion.

13 CHAIRMAN JOHNSON: Further witnesses in support.

14 MR. PURCELL: Mr. Chairman, Senators, my name is
15 Bob Purcell. I'm the Director of the Public Employee Department
16 for the Laborers International Union of North America.

17 I appear on behalf of the Legislative Department
18 for the laborers here in California, particularly Chuck Center.
19 Chuck is sorry that he could not be here. He's at a --
20 essentially a family emergency.

21 The Laborers Union supports the appointment of
22 John Duncan. Chuck worked with John when they were -- when he
23 was the Legislative Director and John was the Director of DIR,
24 found him to be open, and accessible, and thoughtful.

25 And we, the Laborers, believe that as the
26 Chairman of the Employment Relations Board that John will be
27 fair to both employers and to workers.

28 We also appreciate the fact that as the Director

1 of the Planning Panel -- I'm sorry -- the Employment Training
2 Panel, that John worked to keep jobs here in California and
3 create more jobs in California.

4 The Laborers represent approximately 20,000
5 public employees in various jurisdictions throughout the State
6 of California. We believe that John's experience in the
7 executive level as the head of DIR will help him guide the PERB
8 decision-making process so that it will be thoughtful but also
9 expeditious, and allow some of the issues that have been pending
10 to be resolved so that public sector unions can move on with
11 some certainty in the future.

12 Thank you.

13 CHAIRMAN JOHNSON: Thank you, sir.

14 Any further witnesses in support? Witnesses in
15 opposition? Yes, sir.

16 MR. CREMINS: Tim Cremins, Operating Engineers
17 in support.

18 Almost.

19 [Laughter.]

20 CHAIRMAN JOHNSON: You just made it, sir.

21 MR. CREMINS: Just made it right under the wire,
22 right.

23 Our interest here, of course, is we also have
24 State Bargaining Units 12 and 13.

25 We have dealt with John in his past -- his other
26 capacity as Director of Industrial Relations, actually had some
27 contentious issues with prior administration, but we found John,
28 as said, to be thoughtful, and kind of seek reasonable

1 solutions. At minimum, we're able to talk and have discussion.

2 Thank you very much.

3 CHAIRMAN JOHNSON: Thank you, sir.

4 Any further witnesses in support?

5 Witnesses in opposition?

6 Do you have any family members here you'd like to
7 introduce?

8 MR. DUNCAN: Yes, I'd like to introduce my
9 father, Bruce Duncan, from Senator Burton's district, Sausalito,
10 California.

11 I have young children, so I thought perhaps the
12 decorum would -- better safe than sorry if they had appeared.

13 CHAIRMAN JOHNSON: All right. Thank you, sir.
14 What's the pleasure of the Committee.

15 SENATOR ROMERO: Move the nomination.

16 CHAIRMAN JOHNSON: It's been moved. Secretary,
17 call the roll.

18 SECRETARY WEBB: Senator Karnette.

19 SENATOR KARNETTE: Aye.

20 SECRETARY WEBB: Karnette Aye. Senator Romero.

21 SENATOR ROMERO: Aye.

22 SECRETARY WEBB: Romero Aye. Senator Johnson.

23 CHAIRMAN JOHNSON: Aye.

24 SECRETARY WEBB: Johnson Aye. Three to zero.

25 CHAIRMAN JOHNSON: Congratulations.

26 Lester Snow, Director, Department of Water
27 Resources.

28 MR. SNOW: Good afternoon.

1 I liked that. The whole -- the entire room came
2 to attention when it looked like there was going to be active
3 opposition there for a moment. I hope that's not repeated with
4 my nomination here.

5 My name is Lester Snow. I'm Director of the
6 Department of Water Resources pending the action of this
7 Committee.

8 It's a pleasure to be back, involved in
9 California water issues. I've been involved in western water
10 issues for over 27 years, working at the local, state, federal
11 and private sector levels, and working with very diverse and
12 difficult problems, and diverse and difficult stakeholder
13 communities.

14 In working with some of these complicated
15 problems, I think that it has developed the ability to jump into
16 situations where there is controversy -- not that California has
17 any controversy in water matters -- but should those arise in
18 the future, I hope to be able to bring my experience to bear.

19 What I'd like to do is make just a couple of
20 brief comments to supplement the letter that I submitted to the
21 Committee.

22 The first is something that I learned from Tom
23 Hannigan, who was the last person to appear before you to be
24 confirmed for this position, and that is to expect the
25 unexpected. Because when Tom appeared before you, he did not
26 know that he was going to be managing \$6 billion dollars worth
27 of energy contracts in response to the energy crisis, or be
28 involved in the Quantification Settlement Agreement negotiations

1 on the Colorado River. So, despite what we plan, there may be
2 many issues in water that intervene as we move forward.

3 Several issues that I want to mention in terms of
4 priorities for me, or among the priorities, is first the issue
5 of flood management. There has been a recent court case, the
6 Paterno decision, which clearly identified liabilities that the
7 state heretofore was unaware of in terms of how flood plains are
8 operated and how they are managed.

9 It's our intention at the Department to develop a
10 White Paper identifying the issues brought to light by the
11 Paterno case, and hopefully develop a flood management vision to
12 help coordinate state, local, and federal activities to better
13 deal with those liabilities and risks in flood.

14 Second is the issue of a water resource
15 management strategy, or sometimes that can be consolidated in
16 the State Water Plan Update. But most important for me is to be
17 able to provide a statewide framework that encourages regional
18 implementation of water resource projects, and to encourage
19 integrated resource management where storage, conservation,
20 desal. are all brought together to provide a very stable and
21 reliable water supply for the state.

22 And a final comment, and not so much program
23 oriented, but a commitment to try to do more business of the
24 water nature in open and understandable fashion. Sometimes the
25 history of water in California is to make it very dense so that
26 the public doesn't understand what's going on or what the
27 implications of policy decisions are.

28 CHAIRMAN JOHNSON: You're looking for clarity in

1 water.

2 [Laughter.]

3 MR. SNOW: Yes, in both meanings of the term.

4 So, hopefully we can move forward, engage as many
5 people as possible, and ensure that water is not a limit to
6 California's future.

7 I'd be glad to respond to any questions you might
8 have.

9 CHAIRMAN JOHNSON: Senator Romero.

10 SENATOR ROMERO: No questions.

11 CHAIRMAN JOHNSON: Senator Karnette.

12 SENATOR KARNETTE: I always have to ask a
13 question.

14 CHAIRMAN JOHNSON: That's what you're here for.

15 SENATOR KARNETTE: I think that's very true about
16 water, the issue of water being so nebulous to the general
17 population.

18 If you could do something about that, so that
19 people in the south understand the bitterness of the people in
20 the north, and the people in the north understanding how
21 important we are in the south, and we can all work together.

22 Really aside from that, I think people really do
23 not understand water issues at all. I didn't until I came to
24 this Legislature.

25 We need a very simple explanation, and we ought
26 to put it in the schools so that the students learn it early on,
27 the importance of water. And I mean in the elementary school.
28 I don't necessarily mean high school. And if you can work out a

1 plan with that, I think, You know, Jack O'Connell would probably
2 work very well with you. I really would suggest that.

3 I think it's really important, because water in
4 California is different from water in other states. There are
5 all kinds of reasons why.

6 MR. SNOW: I think that water in the west in
7 general is a strange mix of highly technical engineering issues
8 and social values, and those things get crossed often.

9 And there are some school programs I think
10 Metropolitan Water District still supports in Southern
11 California, a school education program. There's a variety
12 around.

13 And I agree, developing a common view of
14 California's water future would be important to all of us.

15 CHAIRMAN JOHNSON: Thank you.

16 Witnesses in support.

17 MR. PURCELL: This is one of the surprises that
18 Mr. Snow, I'm sure, was talking about.

19 Mr. Chairman, Bob Purcell, international
20 representative for the Laborers International Union of North
21 America and Director of the Public Employee Department.

22 Since Chuck couldn't be here today, he asked me
23 if I would be present to support the appointment of Mr. Snow as
24 Director of Water Resources. Again, our Legislative Director,
25 Chuck Center, has had dealings with Mr. Snow over the years, and
26 he has been helpful in the area of project labor agreements, and
27 I believe understands the value of a union workforce and the
28 work that has to be done in water resources.

1 We are in support of the appointment of Mr. Snow
2 as Director of Water Resources.

3 CHAIRMAN JOHNSON: Thank you very much, sir.

4 Next.

5 MS. FORSTER FOLEY: Good afternoon, Mr.
6 Chairman. My name is Mary Jane Forster Foley. I'm here today
7 as a private citizen and a businesswoman from Orange County,
8 California. And I'm here to support the confirmation of Lester
9 Snow as the Director of DWR.

10 I recently finished eight years on the State
11 Water Resources Control Board, serving as Vice Chair for most of
12 those years. And I was a witness to Lester's excellent skills
13 in negotiation and collaboration on very complex water issues.

14 Lester is a visionary. We really need his
15 expertise. We are in dire need of creating a water supply for
16 our future generations as well as ourselves, and Lester is just
17 a perfect candidate for this. And I am so pleased that I was in
18 town today and could come over and endorse his confirmation.

19 And DWR has a wonderful school program. I'll
20 have to tell him about it.

21 Thank you for the opportunity to come.

22 CHAIRMAN JOHNSON: Thank you.

23 Further witnesses in support.

24 MR. GUALCO: Mr. Chair and Members, Jack Gualco
25 on behalf of a number of clients who've sent letters already
26 into the Committee, but the Kern County Water Agency, the
27 Sacramento Area Flood Control Agency, and the Modesto Irrigation
28 District asked that I appear today and corroborate their

1 statements that are written for you, but also to indicate that
2 we've been on the same side and the opposite side of Mr. Snow in
3 negotiations over the years and have found him to be a patient
4 and thoughtful negotiator and problem solver.

5 We endorse him without qualification. Thank you.

6 CHAIRMAN JOHNSON: Thank you, sir.

7 Any further witnesses in support?

8 Witnesses in opposition?

9 Do you have any family here that you'd care to
10 introduce?

11 MR. SNOW: No, do I not. I have a son at Cal
12 Poly who called earlier today for homework on water resource
13 issues. And my daughter's at Bella Vista High School, and my
14 wife is working today.

15 CHAIRMAN JOHNSON: Well, you've got an excellent
16 school program.

17 [Laughter.]

18 MR. SNOW: That's right.

19 CHAIRMAN JOHNSON: What's the pleasure of the
20 Committee?

21 SENATOR KARNETTE: Move.

22 CHAIRMAN JOHNSON: It's been moved by Senator
23 Karnette. Secretary, call the roll.

24 SECRETARY WEBB: Senator Karnette.

25 SENATOR KARNETTE: Aye.

26 SECRETARY WEBB: Karnette Aye. Senator Romero.

27 SENATOR ROMERO: Aye.

28 SECRETARY WEBB: Romero Aye. Senator Johnson.

1 CHAIRMAN JOHNSON: Aye.

2 SECRETARY WEBB: Johnson Aye. Three to zero.

3 CHAIRMAN JOHNSON: Congratulations.

4 MR. SNOW: Thank you.

5 [Thereupon this portion of the
6 Senate Rules Committee hearing
7 was terminated at approximately
8 2:06 P.M.]

9 --ooOoo--

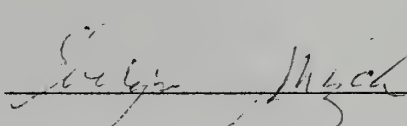
CERTIFICATE OF SHORTHAND REPORTER

I, EVELYN J. MIZAK, a Shorthand Reporter of the State of California, do hereby certify:

That I am a disinterested person herein; that the foregoing transcript of the Senate Rules Committee hearing was reported verbatim in shorthand by me, Evelyn J. Mizak, and thereafter transcribed into typewriting.

I further certify that I am not of counsel or attorney for any of the parties to said hearing, nor in any way interested in the outcome of said hearing.

IN WITNESS WHEREOF, I have hereunto set my hand this 15th day of April, 2004.


EVELYN J. MIZAK
Shorthand Reporter

State of California - The Resources Agency

ARNOLD SCHWARZENEGGER, Governor

DEPARTMENT OF FISH AND GAME

<http://www.dfg.ca.gov>

April 7, 2004

Honorable John Burton, Chairman
Senate Rules Committee
State Capitol, Room 420
Sacramento, CA 95814

Attention: Nettie Sabelhaus, Appointments Director

Dear Ms. Sabelhaus:

In response to the March 18, 2004, request from Senator John Burton, the following information is submitted for your review in preparation for my confirmation hearing as Director of the Department of Fish and Game scheduled for April 14, 2004, at 1:30 p.m.

1. Please provide us with a brief statement of goals. What do you hope to accomplish during your tenure as Director of the Department of Fish and Game?

Becoming Director of the Department of Fish and Game has definitely fulfilled one of my professional dreams. Having served at DFG for over 20 years and working my way up from rank and file warden to Chief Deputy Director, I have had the unique opportunity to move with the Department as we've coped with unprecedented population growth, an explosion of mandates and multiple budget reductions.

That said, as I take over the Department in these dire fiscal circumstances my primary goal is to preserve the people and functions that are core to our mission and to reassure employees, stakeholders and the public that our commitment remains steadfast.

Second on my list is to bring the Department back into fiscal solvency through rational budgeting, realistic goal setting and, frankly, sometimes saying 'no' to demands that fall outside our core focus. I also think it's very important to develop information on Department cumulative reductions to-date and to share that information with policy makers and the public. An honest assessment of which programs meet their objectives is overdue.

On the policy side, I am anxious to work with the Administration, Legislature and stakeholders to identify and implement new and innovative methods to accomplish our objectives and fulfill our responsibilities. We have been 'doing more with less' for years and the water is getting deeper. We need to be creative and call on our partners to join the Department in finding more efficient and

Ms. Nettie Sabelhaus

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effective ways of doing business. Finding ways to do this that do not abrogate our responsibility to preserve and protect California's wildlife, fish and plant resources while continuing to meet the needs of our constituents will be at the forefront.

2. How are you participating in the governor's proposed review of governmental organization? What are your priorities for change or what boxes should be "blown up?"

I am dedicated to making the Department as efficient and responsive as possible and have made this a priority. I have approved the participation of several department employees in the Governor's California Performance Review and embrace the team's objective of identifying ways to make government more efficient.

Currently we are engaged in the working group on law enforcement, looking at ways to minimize duplication of effort while sharing efficiencies statewide. With the reductions the Department has absorbed, it is critical that our enforcement focus be on our traditional activities and that other Departments know it.

In addition, the Department has submitted its proposal for the implementation of an Automated License Data System, to bring its hunting and fishing license sales into the 21st century, to the CPR for review. This effort has been a long time in development and our hope is that CPR review will ensure this effort is being undertaken in the most efficient manner possible. We would like to proceed with our automated system as soon as possible.

On other fronts, the Department is already partnering with other agencies to consolidate and streamline statewide efforts to include communications services that will ensure a more reliable and technologically updated 24-hour statewide law enforcement radio system, and law enforcement training to include a combined law enforcement academy with State Parks and Department of Forestry. I fully support these efforts and am actively working with Department and Agency staff to identify additional opportunities for maximizing the use of our limited resources.

3. How do you think the department should be funded in order to carry out the wide variety of its responsibilities? What should the balance be between General Fund and fee based revenues?

The Department provides services to the people of California in two distinct veins: 1) Activities that implement our public trust responsibilities, benefiting California resources as a whole; and 2) Activities that enhance use and enjoyment of fish and wildlife, benefiting specific groups and stakeholders. There

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are, therefore, a number of reasonable funding sources that can be considered to support the Department's many responsibilities.

An appropriate fund source for the Department's public trust responsibilities would be the General Fund and other State funds established for furtherance of statewide public policy programs. Recreational and commercial use programs should be funded by user fees paid by specific groups and the populous benefiting from the Department's more focused services and programs. Specific projects and resource and environmental programs with finite implementation could be appropriately funded with bond funds matching limited program expenditures. Funding ongoing, day-to-day Department operations would not be prudent with these limited-time fund sources.

4. What types of environmental fees does your department expect to collect? Will they include fees authorized under section 711 of the Fish and Game Code? Will they include CEQA reviews, review of pesticide regulations on behalf of the Department of Pesticide Regulation, review of incidental take permits and NCCP permits among others?

The Department collects 3158 fees (environmental filing fees) and 1600 fees (lake and streambed alternation program). We have no statutory authority to collect fees for review of pesticide regulations on behalf of the Department of Pesticide Regulation, or review of incidental take permits. The Department may be compensated for costs incurred in participating in the preparation and implementation of Natural Community Conservation Plans.

5. How do you plan to collect these environmental fees? What levels of revenues do you expect? Will they cover their review process? Have these fees been indexed as required by section 711?

3158 Fees

The Department collects environmental filing fees (3158 fees) pursuant to section 711.4 of the Fish and Game Code (FGC). The fees are remitted to us by counties (the collection agent for environmental document review fees owed to the Department). These filing fees are set at \$1,250 for a Negative Declaration and \$850 for an Environmental Impact Report. If the CEQA lead agency determines the project is *de minimis* in its impact to the state's fish and wildlife resources, then it is exempt from review fees.

The Department conducted compliance reviews of the practices of several counties and found the *de minimis* category inappropriately used in many instances. We plan to work with the counties to identify erroneous *de minimis* designations. The Department will then bill project applicants for the appropriate fees directly and, if necessary, use its existing lien authority to ensure payment.

3158 fees have not been indexed.

Ms. Nettie Sabelhaus

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1600 Fees

We collect 1600 fees through our Lake and Streambed Alteration program, authorized pursuant to FGC section 1609. In the past we have indexed 1600 fees, but last year's Legislation modifying the 1600 program (SB 418 Sher, Ch. 736, Statutes of 2003) allowed us to develop a new fee structure to make the program self-supporting. The new fee structure in will be in place in August 2004.

The level of revenue anticipated from the new fee schedule will be approximately \$5.1 million a year, which is the amount necessary to pay the total costs incurred by the Department to administer this program.

6. Is there a plan to reduce costs in coordinating Department of Forestry, regional water board and Department of Fish and Game reviews of timber harvest plans?

Currently there is not a plan to reduce costs in coordinating Department of Forestry, regional water board and Department reviews of timber harvest plans.

7. The U.S. Forest Service is expected to increase logging in the Sierras by up to 300 percent. What cumulative effect will this have on wildlife habitat when combined with the projected increase logging by Sierra Pacific and how will the department measure these cumulative effects?

One major focus of the Department's Resource Assessment Program is the Sierra Nevada. We collect time series data on fish and wildlife resources in the Sierra that we can subject to statistical analysis. With this program, we will be better able to understand the cumulative effect of an increase in logging in the Sierra on fish and wildlife resources.

8. How does the department plan to fund timber harvest reviews in light of recent budget cuts?

We have reduced our timber harvest program to fit the amount of funding appropriated by the Legislature.

9. What is the status of the interim restoration work on the department's lands of these [Cargill] salt ponds?

We have certified an EIR for the work, and will be implementing the construction of these facilities this summer. The California Wildlife Foundation has received a grant from the Wildlife Conservation Board and Resources Legacy Foundation to implement the interim stewardship. We have received our Water Quality Control Board permit to discharge pond contents. We are in the process of obtaining remaining permits, which we anticipate within the next month.

Ms. Nettie Sabelhaus
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10. Could you please provide us with a timetable for the restoration work on state lands?

The timeline for implementation of the project is as follows:

- July 2004 - September 2004. Hiring and training of personnel, Begin implementation of Interim Stewardship Plan (ISP) actions and other management and maintenance activities. Participate in ongoing process for South Bay Salt Ponds Restoration Project (SBSPRP). Coordinate with Cargill on ongoing operational issues and process of transferring management responsibility of acquired lands.
- October 2004 - July 2005. Fully implement ISP actions, continue ongoing management actions, complete restoration planning for Napa Plant site and begin environmental review and permitting. Conduct wildlife and water quality monitoring to assure permit compliance and provide for adaptive management of the ponds under the ISP. Continue participation in SBSPRP process. Work with Cargill to monitor completion of phase-out agreement obligations and coordinate transfer of operational responsibility over acquired lands.
- July 2004 - Fall 2008. Manage initial restoration facilities to assure water circulation in the ponds to minimize salinity. Maintain and repair existing levees, roads, water control facilities and maintain flood protection and habitat values.
- Spring - Fall 2006. Complete environmental review and permitting for Napa Plant site.
- Fall 2006 - Fall 2008. Finalize restoration design and begin implementation of Napa Plant site restoration.
- July 2005 - Fall 2008. Complete SBSPRP public outreach and involvement, environmental review, and permitting. Develop budget and in cooperation with partners seek funding for implementation of comprehensive plan. Develop bid specifications and implement first phases of SBSPRP.
- Continue to manage pond system to minimize pond salinities and optimize habitat values.

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11. How large is the poaching problem in California today? How does the department plan to address this issue?

In 1997, illegal commercialization of wildlife in California was estimated at over \$100 million per year, second in profit only to the illegal drug trade.¹ The following are examples of poaching and black market values identified by recent investigations conducted both overtly and covertly by the State's fish and game wardens.

- Illegal take and sale of sturgeon—the investigation identified a group of individuals taking sturgeon for the roe (eggs) to supply brokers. The caviar made from the roe was then sold to a network of clients from Washington to Los Angeles for as much as \$100 per pound. (On average, 10 pounds of roe per female.) One single transaction with an undercover operative netted the suspects \$5,000 in illegal profits. This illegal activity was the only "job" the suspects held.
- Illegal take and sale of abalone—the investigation identified a group of suspects illegally taking and selling abalone. The network was so sophisticated it involved takers of abalone, middlemen who brokered the abalone, and the ultimate consumers. One husband and wife team was suspected of profiting by over \$180,000 per year in illegal sales of abalone and stealing more than 800 abalone per year from ocean waters.
- Illegal take and sale of reptiles—a year-long investigation ended in the execution of 10 search warrants and 15 arrest warrants. Hundreds of native reptiles were taken from the wild and placed in the black market for substantial profits. One albino subspecies of Rosy Boa was rumored to be on the market for \$10,000.
- Illegal take of lobster—a father/son team that had commercial fishing licenses fished in a closed zone and profited by over \$100,000 during a portion of one fishing season.
- Illegal take of bear—the investigation of a ring of licensed and unlicensed guides who were illegally taking bear and other wildlife both in and out of the regulated season. They were charging \$1,500 per bear and directing taxidermy work to an associated suspect. Many wildlife species were killed during the investigation showing the scope of illegal activity. It was

¹The World Wildlife Fund (WWF) and the United States Fish and Wildlife Service (USFWS) have produced lists of wildlife and their black market values. These lists are continually updated as the price of illegal wildlife changes and the list of species with commercial value grows daily.

Ms. Nettie Sabelhaus
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suspected that the illegal sale of bear parts was occurring but not identified in the investigation. The value of one ounce of bear bile currently sells for \$2,000 in Asia.

- Under reporting of commercial landings—the investigation found a fish business under reporting squid landings. The business failed to pay the Department over \$40,000 in landing taxes, and failed to pay fishermen more than \$1 million dollars.

To address current trends in illegal commercialization, the Department's Enforcement Program (EP) has identified these investigations as a priority. The Special Operations Unit continues to be staffed and supported, yet is not able to investigate cases at, or close to, optimum levels. Overtly, uniformed wardens are implementing focused patrols to create the impression of more enforcement personnel in areas than actually exist. The EP is well below minimum staffing levels needed to meet its priorities and adequately protect the resources. It should also be noted that as State Peace Officers, our wardens provide mutual aid to other enforcement agencies and participate in Homeland Security detail.

Unlike other law enforcement agencies, wildlife law enforcement cannot extrapolate what is not being addressed by collecting data on calls for service that go unanswered. The majority of their service is to the very thing they are trying to protect, the wildlife of the State of California, which cannot be surveyed. However, an analysis of calls made between 2001-2002 to CalTIP, the Department's poaching hotline, revealed that of the calls that warranted a warden response, 27% did not receive response due to staffing shortages. One-fifth of the legitimate calls logged during that time period reported environmental violations such as a streambed alteration, creek or storm drain pollution, or other habitat destruction.

12. What is the department's current plan for the Northern Pike? Does it plan to eradicate them or manage them in place?

The Department implemented a "Control & Contain" program in 2000 in cooperation with the Lake Davis Steering Committee. The committee and the Department developed a plan and the Department implemented this plan in an attempt to control the pike population in the lake.

A Three Year Summary report prepared in the summer of 2003 indicated that the pike population is increasing in size. We do not believe the pike have taken over the lake but their presence continues to constitute a threat to the waters of California.

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The Department has used nets, electro-fishing, and detonation cord in an attempt to control the population. Chemical treatment has not been utilized by the Department in the past five years.

Attempting to manage northern pike at Lake Davis is not a feasible way to prevent spreading of pike to other waters of the state. Total eradication of the northern pike from Lake Davis is the only positive method in preventing spread of the pike. The Department has worked very closely with the Plumas County community in finding a method to eradicate the pike. The Lake Davis Coalition Steering Committee, composed of local political and community members, as well as State and federal agencies, has requested the Department pursue eradication efforts.

Department personnel in the Portola office have been, and continue to be, actively involved in compiling information and educating the local community on safe methods which could be used to eradicate the pike.

**13. What is the time frame for the management or eradication program?
How will the program be funded?**

Preparation of a CEQA document pursuing a control/eradication project could be initiated as early as late fall of this year.

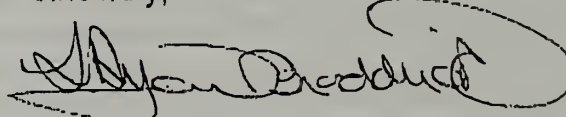
As we explore a potential eradication program, we will look for additional funding opportunities. DFG is working with the California Bay-Delta Authority to determine if monies are available to assist in an eradication program.

Any serious treatment effort, especially one that would include a major drawdown of the lake level, would potentially have a 1 – 3 year effect on area tourism.

I hope you find this information useful and responsive to the Committee's inquiry. Please feel free to contact me at (916) 653-7669 if you have any questions or would like additional information.

Thank you for your time and consideration.

Sincerely,



L. Ryan Broddrick
Director

STATEMENT OF GOALS

John Duncan, Chairman, Public Employment Relations Board
Relative to his April 14th Confirmation Hearing before The Senate Rules Committee

The Public Employment Relations Board (PERB) is a quasi-judicial administrative body that promotes improved employee/employer relations, provides opportunities for employees to participate in collective bargaining through their selection of a representative and provides employees, employers and employee organizations a neutral forum for cost effective dispute resolution. Through its decisions, PERB provides guidance for successful labor relations in an increasingly complex public environment.

The Legislature initially established PERB more than 25 years ago as the Educational Employment Relations Board to administer the collective bargaining statute covering public school and community college employees. Over the years the Legislature expanded on the initial legislation authored by Sen. Albert S. Rodda. The Ralph C. Dills act added state employees. Employees of the University of California and the California State University were added by The Higher Education Employer-Employee Relations Act authored by Assemblyman Howard Berman.

In 2001, the Legislature passed SB 739 added municipal County and local special district employees to the Board's jurisdiction as well. This alone almost doubled the number of employees under PERB jurisdiction. There are just under two million employees and over seven thousand employers subject to PERB jurisdiction.

This addition obviously increased the workload of the Board. The initial increase continued upward in 2002-2003 and into 2004. There has been no increase in PERB resources to address the increased workload.

In spite of these constraints the PERB staff has continued to work as efficiently as possible but a backlog of cases has accrued.

1. REDUCE BACKLOG

The Board has statutory mandates and must fulfill these in a manner that is fair and evenhanded to both public employees and employers. PERB values timely and voluntary settlement of disputes. Settlement of disputes avoids costly litigation and fosters productive labor relations promoting better use of public resources.

The number of unfair practice charges filed has increased from 500 a year to over 800 in the last fiscal year. PERB is on track to repeat that level this year. This pace exceeds that of the NLRB. The Board itself has 92 cases at present down from a high of 114 in 2003. With budget limitations for all public employers it is likely that tight budgets will make it difficult to negotiate contracts. This is very likely to further increase the PERB caseload.

2. PROVIDE CONSENSUS

This administration is committed to working diligently to achieve consensus towards key issues affecting the state. This Board is also committed to that goal and the Board members will work together toward organized clear opinions reflecting fairly and accurately the law as it was enacted.

3. CLARIFY BUDGET

The need for additional funding is based on the scope of the Board's duties. PERB achieves its mission through the application of its unique expertise and by the consistent, fair and impartial adjudication under the EERA, Dills Act, HEERA and MMBA. Moving towards a zero based budget with the goal of direct connection between the duties and tasks funded is paramount.

The Legislature established this as a five-member full time board headquartered in Sacramento. The other offices are located in Los Angeles and Oakland. Of the 613 charges filed since July 2003, 190 were filed in Oakland and 231 in Los Angeles. To further the goal of reducing the backlog at the Board level the most cost effective approach is to add the two additional positions called for in the enabling legislation. The wave of cases hitting the Board underscores the foresight of the Legislature in determining the need for a full board.

The public employees and employers of this state deserve a guarantee of timely review of appeals and reduction of the present backlog in a well reasoned and even handed manner. The Board and staff work diligently toward this goal.

DEPARTMENT OF WATER RESOURCES

1416 NINTH STREET, P.O. BOX 942836

SACRAMENTO, CA 94236-0001

(916) 653-5791



April 7, 2004

Honorable John L. Burton, Chairman
Senate Rules Committee
State Capitol, Room 500
Sacramento, California 95814

ATTN: Nettie Sabelhaus
Rules Committee Appointments Director

Dear Chairman Burton:

This is in response to your letter of March 24, 2004 requesting responses to questions to help provide background for my confirmation hearing. The following are responses to each of the 20 questions:

1. **Goals for Tenure as Director, Department of Water Resources**

California water development has a history rich in legendary conflict and visionary leadership. My goal as Director is to promote management of our water resources to contribute to a vital economy, healthy environment, and high quality of life. While it is not possible to anticipate all the issues that will face us, some of my specific areas of attention will be:

Flood Management. The challenge of protecting the lives and property of Californians from flood damage has become increasingly complex. I will examine strategic approaches and specific programs in five areas: emergency response; risk management; maintenance of existing flood projects, including the respective roles of local agencies and the State; floodplain management for multiple benefits, along with a more rapid program of mapping; and capital outlay, for both existing and new flood projects.

CALFED Program. This program is our best opportunity to move forward collaboratively with a variety of resource management efforts related to water and the environment. I will place a very high priority on collaborative implementation of all CALFED program elements.

California Water Plan (Bulletin 160). I will work to complete the Water Plan Update such that it becomes a framework for effective regional water resource plans that integrate transfers, conservation, reuse, storage, and other aspects of water and resource management. DWR must provide a useful bulletin and other tools to help local water managers carry out integrated resource planning.

Effective Power Management. I will work to efficiently perform all statutory, legal, and fiduciary responsibilities regarding management of the State's long-term power contracts and servicing of power revenue bonds. This will include streamlining the way DWR recovers its revenue from utilities to lower costs to ratepayers, monitoring electricity market and gas supply forecasts, maintaining due diligence oversight on contracts, seeking opportunities to improve contract terms through renegotiations, and pursuing opportunities to assign the long-term contracts to the Investor-Owned Utilities.

FERC Relicensing. By January 31, 2005, DWR must submit an application to the Federal Energy Regulatory Commission for relicensing of the Oroville facilities that are the centerpiece of the State Water Project. I will work to retain the license for continued cost-effective operation of the Oroville facilities, address concerns raised by FERC and stakeholders, and demonstrate that reservoir operation can support both water supply reliability and a healthy ecosystem.

Salton Sea Restoration and QSA Implementation. DWR and the Resources Agency have recently increased their involvement in Salton Sea restoration, pursuant to legislation passed last year as part of the Quantification Settlement Agreement. Protection of the fish and wildlife resources dependent on the Sea will be a critical element of the QSA, and I will work with other involved agencies to apply the best science and engineering to this challenging restoration project.

San Joaquin River Restoration Strategy. There are huge challenges associated with San Joaquin River restoration, but also great opportunities to improve the ecosystem along this highly modified river. I believe that DWR can bring the various interests together to develop and implement restoration strategies on the San Joaquin.

Regional Program Support. Water managers around the State are learning that they can optimize their water supply reliability by developing integrated resource management actions at the local and regional level. I will use the resources and expertise of DWR to support these kinds of efforts, such as the Sacramento River Water Management Agreement, and implementation of Chapter 8 of Proposition 50.

Honorable John L. Burton, Chairman
April 7, 2004
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Storage Program. Increased water storage, both groundwater and surface, can improve the reliability and flexibility of our water supplies. If projects are developed and operated properly, they can also contribute in a positive way to ecosystem restoration efforts. I will work to identify and develop a variety of storage projects that can achieve multiple benefits and garner the support of the spectrum of stakeholders.

Management of the State Water Project. DWR is responsible for the operation and maintenance of water infrastructure that stretches nearly the length of California. The age of the system, and modern security concerns, present challenges that did not exist before. I will work to ensure that the SWP continues to be a reliable source of water for California farms and communities.

2. **Priorities for change and reorganization.** I have undertaken an assessment of DWR responsibilities and organization in order to identify ways we can improve services and effectiveness. However, consideration of major changes or "blowing up boxes" will await the results of the California Performance Review process.
3. **Institution of user fees.** A fundamental priority of the CALFED Program is to maintain a balanced and integrated program. Developing a long-term finance plan that enables the Program to continue implementation in a balanced manner is critical to achieving Program goals. Working with a group of consultants, a panel of financial experts, and stakeholder input, the Bay-Delta Authority is currently developing a set of finance options for each program element, consistent with the "beneficiaries pay" provision of the CALFED Record of Decision. These finance options include a variety of user fee options. The CBDA has been working on a series of reports that will culminate in a final draft Financing Options Report expected to be available in summer 2004. I am committed to working with CBDA, other agencies, stakeholders, and the Legislature in the development of a fair and equitable finance strategy.
4. **Federal participation in CALFED.** The CALFED Record of Decision envisioned that the program would be challenged by an uneven flow of resources and support from the involved agencies; that is why balancing provisions figure so prominently into the CALFED plan. At this point, the contributions of the federal government have lagged behind State contributions, but over a 30-year implementation period it is anticipated that balance will be regained. We do currently enjoy the active participation of federal agencies in all aspects of the CALFED program.

5. **Water operations and Delta water quality.** DWR is working hard with other State and federal CALFED agencies, Delta interests, and other stakeholders to define a Delta Improvements Package that all the interests can support. Our CALFED Record of Decision commitment to "continuous improvement in Delta water quality" must be a part of that package. DWR will meet the Delta standards that depend on operation of the State Water Project, and we will work with the Bureau of Reclamation to help meet standards that are more strongly influenced by operations of the Central Valley Project. At the Senate Agriculture and Water Resources Hearing on March 30, 2004, I committed to the development and implementation of a lower San Joaquin River salinity management plan to improve conditions in the South Delta.
6. **Delta actions and the CALFED Record of Decision.** The CALFED RoD calls for balanced implementation of the CALFED program. In the Delta, this includes improving the environment to recover threatened and endangered species, making continuous improvements in Delta water quality, increasing conveyance capacity of the Delta pumping plants, assuring adequate water levels for agricultural diverters, and improving levee system integrity. We need to make progress in all of these areas simultaneously. Improvements in water quality prior to increased pumping are not inconsistent with the RoD, nor does the RoD require such improvements as a precondition. However, as stated above, I have committed to develop and implement a plan to improve salinity levels in the south Delta.
7. **Stakeholder involvement in formulation of Delta actions.** The elements of the Napa discussions, along with other Delta actions proposed as part of the CALFED program, have been incorporated into an open collaborative CALFED process where they are getting a full airing prior to a decision. DWR along with other CALFED agencies have initiated work on a Delta Improvement Matrix, which will be utilized to fully engage stakeholders on implementation issues and strategies.
8. **Schedule for completion of a Delta action plan.** We are proceeding with the development of a Delta Improvements Package including some elements from the Napa discussions. We have prepared a preliminary draft of actions and associated schedules that we have shared with stakeholders. We have discussed with them the potential linkages among these actions. We will brief the Bay-Delta Authority on the status of this approach on April 7 and 8. Within a month or two we expect to have a draft implementation agreement regarding a Delta Improvement Package to be shared with stakeholders and discussed at a subsequent CBDA meeting. Our goal is to have a strongly supported Implementation Agreement completed by mid to late summer 2004.

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9. **Napa discussions and the Delta Improvements package.** The discussions that DWR, Reclamation, and some of our respective project contractors had at Napa were aimed at improving our cooperation as we operate the State and federal water projects, and will contribute to the formulation of a Delta Improvements Package. The Napa discussions were a starting point, and broad agreement on a Delta Improvements Package is the logical next step.
10. **Surface storage planning under budget constraints.** We do not expect to reduce the number of projects under consideration immediately, because each of the 5 projects under consideration – out of the 60 or so that CALFED first considered – may offer important water management and environmental benefits. However, recognizing funding limitations, it is my intent to focus our resources on projects that represent the best opportunity for water management flexibility, local support, and partnerships.
11. **Implementing the principle of “beneficiaries pay.”** DWR and Reclamation analysis of various surface storage proposals is proceeding with the funding that is available to our respective agencies. For each potential reservoir, we can consider a range of operating criteria and potential beneficiaries. Until our analysis progresses, it will be difficult for any potential beneficiary to understand the benefits and costs of investment in a particular project. CALFED envisioned that surface storage planning would proceed with public funding, to be reimbursed by identified beneficiaries once implementation decisions were made. That model is still valid, except that we may ask potential beneficiaries to help fund additional analysis if funding shortfalls significantly hamper our progress.
12. **Discontinuing work on projects with inadequate support.** When State and federal agencies have completed sufficient feasibility analysis so that we can make comparative evaluations of the projects, and potential beneficiaries can make informed decisions about financial participation, we will discontinue work on any project that does not garner support. It would be premature to drop any projects from consideration at this time.
13. **Restoring and recovering fish and wildlife resources.** It is essential that that we enhance fish and wildlife resources and maintain a trajectory toward recovery of species that depend on the Bay-Delta. Consistent with the CALFED commitment to adaptive management, that means continually looking at aspects of fish and wildlife resource needs such as flow, physical habitat restoration, and water quality improvement, and providing what is

needed to achieve recovery. I am committed to improving overall fish and wildlife conditions in the Bay-Delta system.

14. **Adaptive management and quantification of environmental flows.** As stated in the previous response, we must base our decision making on adaptive management. This means that we use the current state of our knowledge and the current state of the fisheries to determine flow needs – as well as other habitat needs – necessary to maintain a trajectory toward recovery. Using all the CALFED tools available to us, we believe we are meeting the flow needs of fish. I commit to continue working with the CALFED agencies to secure resources necessary to recover species in the Bay-Delta.
15. **Completing a Restoration Strategies Report.** This issue involves a very complex situation on the San Joaquin River. DWR, the Bay-Delta Authority, and Reclamation have all provided funding to entities working on San Joaquin River water management in a settlement effort to resolve protracted litigation. The original grant funding was for the purpose of preparing a water supply report, a restoration strategies report, and an integration report that would blend the first two documents into recommendations for restoration. In April 2003, settlement talks broke down among litigants on the San Joaquin; the parties returned to court and stopped work on the program. At that time, the water supply report was completed and made available to the public and the restoration strategies report was nearly complete. Since May 2003, DWR has been working with Reclamation, the Natural Resources Defense Council, and the Friant Water Users Authority to develop a process to complete the restoration strategies report, and all four parties have expressed a desire to complete the report. Based on discussions with the interested parties, DWR intends to proceed with the restoration investigation in two stages. First, complete the existing reconnaissance level report as quickly as possible and make it available for public and scientific review. This effort, using the original contractor, may take three to six months. The second stage includes the scoping and implementation of a more comprehensive assessment of restoration strategies. This step will require the development of a more collaborative management structure to include DWR, the Department of Fish and Game, Reclamation, FWUA, and NRDC, and incorporate peer review by an independent science panel and greater stakeholder involvement. An open evaluation of the opportunities and challenges for restoring the San Joaquin River needs to be completed. We will work with the parties to accomplish that goal.

16. **San Joaquin River storage in the CALFED context.** DWR has been working to develop the groundwater element of the CALFED program. Since 2000, we have disbursed \$210 million in grants and loans to 135 agencies, and have entered into 17 cooperative planning agreements with local agencies throughout the State. DWR staff has been working with Reclamation to develop the conjunctive management element to be considered as part of the upper San Joaquin Storage Investigation. I am committed to an integrated approach to storage in the upper San Joaquin system.
17. **CALSIM II and public input.** DWR worked with the CALFED Science Program to obtain independent peer review of the CALSIM II model. The peer reviewers released their report in December 2003. Generally, this report is very supportive of CALSIM II. The review panel strongly supports the approach taken in CALSIM II and makes constructive recommendations on its improvement. The recommendations address technical issues, training and documentation, increasing adaptability of the model, and adding a Graphical User Interface. The peer reviewers describe their effort as a strategic review. They recommend following up with a more thorough technical review. DWR, with Reclamation, is doing just that. DWR has completed a draft work plan, which addresses all significant comments in the report. A workshop will be held Friday, April 9, 2004 to discuss the proposed work plan as a response to recommendations from the report. DWR recognizes that the CALSIM II model, like any analytical tool, can always be improved. I am committed to an open process for model refinement.
18. **Using CALSIM II in decision-making.** Simulation models such as CALSIM II are exceedingly complex. Such models are continuously refined so that they better predict the response of the system to various potential changes. Whenever models are used, they are tools to inform decision makers; the models do not make the decisions, nor can model output be used in decision making without analysis and interpretation. We will make water policy and operational decisions based on the best information and tools that we have available. We will always temper model output with judgment and experience. No significant decision should ever be based solely on model output. Analytical models such as CALSIM help inform us, and provide comparative information, but do not make the decisions for us.
19. **Water Plan assumptions and estimates.** DWR has fundamentally reformulated and expanded the process and content of the next Water Plan Update in response to new requirements of Senate Bill 1341 (Burton), Senate Bill 672 (Machado), and significant public comment. We have developed a new planning framework for this and future Water Plan Updates. This new framework includes: (1) extensive consultation with a public advisory

committee; (2) Water Portfolios, expanded water balances that include the entire hydrologic cycle; (3) Regional Reports; (4) multiple Future Scenarios; and (5) expanded and diverse set of Resource Management Strategies. DWR has made tremendous strides in opening the water planning process up to public involvement and scrutiny, at least in part due to prompting from the Legislature. With respect to Senator Burton's SB 1341 of 2000, DWR did its best to comply with the law, submitting a report identifying the assumptions and estimates that were available at the time the report was submitted in December 2001, and identifying other items that were still under development. With guidance from the Water Plan Update public advisory committee, DWR established an "Assumptions and Estimates" page on the Water Plan Update website. The "Assumptions and Estimates" page began as the report submitted to the Legislature in 2001, and has been continuously refined and updated since then. DWR has made significant strides in opening up the planning process through the advisory group, the website and other means. Today, I believe the Water Plan Update website is one of the best examples we have of openness and transparency in State government decision-making. I invite members of the committee to view the website at: <http://www.waterplan.water.ca.gov/AandE/>. Alternatively, DWR would be happy to provide a demonstration for any member of the Legislature.

With respect to the timetable for completion of the next Water Plan Update, DWR released a working draft of the bulletin on January 30 of this year, received public comment, and expects to release a new public review draft on July 15, 2004. Concurrently, I will review the status and content of the Water Plan Update in detail and determine a final schedule for completion. The current published schedule calls for the compilation of additional comments, public hearings, and completion of a final Water Plan by the end of this calendar year. I am mindful that this would be one year behind schedule, and I will push to complete the bulletin as rapidly as possible without sacrificing the collaborative process we have established.

20. **Integration of CALFED and the Water Plan.** The CALFED process did much to guide California's future approach to water management, highlighting the need for the State to work more closely with local agencies in the development of water supply strategies. DWR is integrating the CALFED approach into an updated Water Plan. A key element of this Water Plan is to provide a State framework that is consistent with, and implemented through, diverse regional and local strategies to manage water, maintain reliability, and protect the environment.

The Water Code states that the Water Plan cannot mandate actions or authorize spending for its recommendations. As a strategic plan, the Water Plan does not make project-specific or site-specific recommendations. Consequently, DWR and the Legislature must take further action to provide funding and to adopt the actions recommended in this Water Plan. Some of

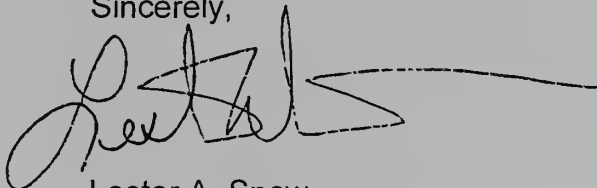
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this subsequent project planning is being carried out through our CALFED implementation.

The Committee's questions identify major topics of concern and my responses are meant to facilitate meaningful discussion on these topics. While the Committee has identified a substantial list of issues, it is by no means exhaustive. I shall do my best to respond to any DWR management and water-related concerns, which members may wish to raise.

I look forward to meeting with you on April 14, 2004. If you have any questions, please call me at (916) 653-7007.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lester A. Snow', with a long horizontal flourish extending to the right.

Lester A. Snow
Director

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